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Current Topics.

New Year Honours.

A NOTABLE tribute is paid to the Legal Profession in the Honours List for the New Year (1926). Lord DUNEDIN'S distinguished career on the Bench, first as Lord Justice General, and then as Lord of Appeal in Ordinary, is recognised by a Viscounty. The eminent services of the Master of the Rolls (Sir ERNEST POLLOCK) are rewarded with a Barony of the United Kingdom. Mr. HERBERT GIBSON, who rendered such valuable services to The Law Society as its President during its centenary year, receives a Baronetcy. In the list of Knights are the names of three King's Counsel: Mr. J. H. CUNLIFFE, K.C., M.P., Attorney-General for the Duchy of Lancaster, Mr. T. R. HUGHES, Chairman of the General Council of the Bar, and Mr. CHARLES MARSTON. Two solicitors, namely, Mr. W. E. HART, Town Clerk of Sheffield, and Mr. WILLIAM RAMSDEN, of Huddersfield, receive the same honour. The Dominion and Indian Honours Lists also contain the names of several distinguished lawyers, among them being the Chief Justices of Rangoon and Malta.

Separate Bar for Northern Ireland.

A PROPOSAL has been made to establish a separate Inn of Court for Northern Ireland. Hitherto, notwithstanding the division of Ireland into two separate States, there has been only one Irish Bar. Northern Irish barristers have eaten their dinners at King's Inns, Dublin, and have been called both in Dublin and in Belfast. One of the reasons advanced in favour of the proposed change is an alleged tendency of the legal profession in the Free State to break away from the old English traditions. An analogy for the separation of the two Bars may, perhaps, be found in the recent decision of the Free State Executive to establish a separate Medical Register. As a matter of fact, however, more might be said in favour of separate Bars than for separate Medical Registers in the two States. While the study of medicine and medical practice must, inevitably from the nature of the subject, be to all intents and purposes the same in the two countries, the study and practice of the law in each may well—and in fact is already beginning to—follow different lines. The step contemplated, if actually taken, might be viewed from one angle as a natural, outward sign of the development in Ireland of two distinct States based upon two different traditions. But from another—assuredly a saner and more detached—standpoint, the separation of the Bars of the two States would constitute a serious handicap in the realization of the goal of a united Irish State.

Restrictive Covenants: Concurrent Conveyance and Mortgage.

IT IS PROVIDED by s. 13 (1) of the Land Charges Act, 1925, that a land charge falling within Class A in s. 10, *ibid.*, will be void as against a purchaser of the land charged therewith or of any interest in such land unless the land charge is registered in the register of land charges *before the completion of the purchase*. And by s. 13 (2), *ibid.*, land charges of Classes B, C and D, created or arising after 1st January last are or will be void as against a purchaser of the land charged therewith unless the land charge is registered in the appropriate register—again, before the completion of the purchase. Difficulties may arise owing to the application of these provisions where a purchaser, for example, mortgages the property immediately after the conveyance to him is executed, having entered into restrictive covenants. A land charge must be registered in respect of these restrictive covenants before the mortgage deed is delivered to the mortgagee, otherwise the latter will not be bound by the covenants. Two methods have been suggested for getting over this practical difficulty, namely: (1) that an application be made to the Land Registrar to register a land charge, say, in respect of a restrictive covenant which will be contained in a conveyance to be executed and dated in the future. This method is open to the obvious objection that the restrictive covenant is not really in existence at the date of the application for registration, hence cannot be registered as such. Registration must date from the date of the application or the receipt of the application, whichever last happens. The date of the instrument creating the land charge must not be subsequent to the date of application. Hence this suggested method clearly cannot be adopted in practice. (2) The scheme which we understand will be followed in practice is as follows: The purchaser (i.e., the covenantor) will execute the conveyance on a day prior to the date fixed for completion, and the conveyance will bear the date of execution by the purchaser, or the date when it is received by the vendor. All the deeds will be retained by the vendor till actual completion. As soon as he receives back the conveyance from the purchaser he will date it and forthwith apply for the registration of the restrictions against the name of the "Estate Owner," i.e., the purchaser: see Form L.C. 4.

Completion can be safely effected any day after the date on which the application is lodged or will arrive by post at the

Land Registry. An ample margin can be allowed for delays in the post. If the application is delivered by hand in the morning, it means there would be no objection to completing on the same day for the register will show the date of application. If the conveyance, registration and mortgage all bear date the same day, the courts will hold that they have been effected in the proper order. The essence of the matter is that an effective application for registration should be made before the parties meet to complete.

Position of Ministers of Religion under the new Pensions Act

ATTENTION HAS recently been drawn by the Ministry of Health to the position of clergy and church workers generally under the new Pensions Act. All persons compulsorily insurable under the National Health Insurance Act are similarly insurable under the new Pensions Act. Generally speaking, those persons are insurable who are over sixteen and under seventy years of age, who are employed under a contract of service and are manual labourers, or do not receive a salary of £250 a year. A minister of religion is not generally employed under a contract of service and does not therefore fall within the compulsory provisions of the Acts. Persons, however, such as church and mission workers who perform secular duties at a fixed salary and work under the control of employers, are usually insurable. But certain part-time employments in or about a place of worship may, in virtue of a special order, be excepted from being compulsorily insurable. Of course, ministers and other church workers who are not compulsorily insurable may, if they have been insured for 104 weeks, and have paid 104 contributions, either as employed or as voluntary contributors, give notice of their intention to become voluntary contributors under the combined scheme of Health and Pensions Insurance. They must, however, exercise this option before 4th July next or it will lapse.

Dismissal of Married Women Teachers.

ALMOST IMMEDIATELY after the decision of the Court of Appeal in *Short* v. *Borough of Poole*, 42 T.L.R. 107, comes yet another decision on the dismissal of married women teachers, and given by Mr. Justice LAWRENCE in *Fennell & Others* v. *Mayor, &c. of the County Borough of East Ham*, *Times*, 11th December, 1925. The facts in this case are somewhat similar to the facts in *Short's Case*, and the question which the court was again called upon to decide was whether the Local Education Authority was justified in the circumstances in dismissing certain married women teachers. The principle to be applied to such cases of dismissal of teachers from *provided* schools, according to the decision of the Court of Appeal in *Short's Case*, is that it is necessary, in order to invalidate the purported exercise of the power to terminate the teacher's engagement, to show that the Local Education Authority has acted either *ultra vires*, or corruptly, or *malâ fide*, or with an alien motive, or in pursuance of an illegitimate aim. In *Fennell's Case* the real object of the Education Authority in reducing the number of married women teachers and dismissing some of them, was to make room for unemployed single women teachers, who had been assisted out of the public funds in training for the teaching profession, and who had thereby been led to believe that there would be positions available for them on qualification, and, according to the evidence of one of the witnesses, the non-employment of young women after they had become qualified, and the possible effect of such employment on education in the future, and the means which accordingly were to be adopted to prevent such unemployment, were all matters which were connected with educational efficiency. Mr. Justice LAWRENCE accordingly held, in the circumstances, that the authority, in adopting this policy of dismissing married women teachers, could not be held to have been acting *ultra vires* or in excess of the powers granted to them or from some alien or irrelevant purpose, so as to render their action nugatory.

Admissibility of Evidence of Previous Offences on Charge of Carnal Knowledge of Girl

ACCORDING TO the proviso to s-s. 1 of s. 5 of the Criminal Law Amendment Act, 1885, no prosecution for an offence under that sub-section (i.e., carnal knowledge of girl under sixteen years of age), may be commenced more than three months (since altered to six months) after the commission of the offence; but it has nevertheless been held that this limitation does not apply to the giving in evidence, of similar offences committed against the prosecutrix, even more than six months prior to the commencement of the prosecution in respect of the substantive charge. This point was decided in *R.* v. *Shellaker*, 1914, 1 K.B. 414, over-ruling *Reg.* v. *Beighton*, 1897, 18 Cox. 535. A similar point arose in a recent case before the Court of Criminal Appeal, i.e., *R.* v. *Hewitt*, 1925, W.N. 292, and it was sought to distinguish this case from *R.* v. *Shellaker* on the ground that in the former there was a greater lapse of time between the commission of the other offences which were given in evidence, and the commission of the substantive offence, which was the subject of the charge. The Court of Criminal Appeal, however, held that the evidence was admissible. The principle, on which such evidence is admitted, would appear to be the same and to be unaffected by the interval of time, at any rate as far as the admissibility of the evidence is concerned; where, however, the interval of time is great, or where for any other reason the evidence, though admissible is not of any material value, the judge should intimate that the evidence ought not to be given against the prisoner. As ISAACS, C.J. (as he then was) pointed out in *R.* v. *Shellaker*, 1914, 1 K.B. at p. 418: "It is quite easy to put cases where the application of this principle might cause hardship to the prisoner, but such cases might come within the class in which, though in strictness the evidence is admissible, the judge may be of opinion that it is of so little real value and yet indirectly so prejudicial to the prisoner, or that it is so remote, that it ought not to be given."

Intervention by King's Proctor, whether a Proceeding in Consequence of Adultery?

AN IMPORTANT point of law turning on s. 3 of the Evidence Further Amendment Act, 1869, was decided in *Sneyd* v. *Sneyd & Burgess*, King's Proctor showing cause, 42 T.L.R. 106. According to that section, the parties to any proceeding instituted in consequence of adultery, and the husbands and wives of such parties, shall be competent to give evidence in such proceeding: Provided that no witness in any proceeding, whether a party to the suit or not, shall be liable to be asked or bound to answer any question tending to show that he or she has been guilty of adultery, unless such witness shall have already given evidence in the same proceeding in disproof of his or her alleged adultery. The question that arose in *Sneyd* v. *Sneyd*, was whether or no an intervention by the King's Proctor to have a decree rescinded was a proceeding "*instituted in consequence of adultery*," and whether, therefore, a question put to the respondent which tended to show that the witness had committed adultery, was admissible. The learned President ruled that the question was admissible on the ground that an intervention by the King's Proctor was not a proceeding instituted in consequence of adultery, but was in effect a "proceeding by a public authority to set aside the finding in a suit instituted in consequence of adultery." The learned President, however, held, that the common law protection which a witness enjoyed to refuse to answer incriminating questions nevertheless applied to such proceedings. For other instances, in which such questions have been held admissible, reference may be made to *M. otherwise D.* v. *D.*, 10 P. 175, suit instituted for nullity on the ground of impotence, and *Evans* v. *Evans & Blyth*, 1904, P. 378, where on the hearing of issue to determine the status of a child born of the respondent during wedlock, a question put to the co-respondent in the former proceedings, as to his adultery with the respondent, was held to be admissible.

Charities and Income Tax.

THE House of Lords have approved of the decision of the Court of Appeal in *Brighton College* v. *Marriot* (*Times*, 19th December), and it would be interesting to note the points of law involved in that decision.

The facts in that case were shortly as follows: Brighton College was founded as a public school in 1845, and in 1873 was incorporated as a company limited by guarantee, the objects for which it was incorporated being to continue the college with an improved constitution, to provide thereby a sound religious, classical, mathematical and general education in conformity with the doctrine of the Church of England, and to do all such other lawful things as were incidental and conducive to the attainment of the above objects. The memorandum of association provided that the income and property of the college should be applied solely towards the promotion of the objects of the college, and should not be paid or transferred by way of profit to the persons who were, or had been, members of the college, or to any persons claiming through them. Since its foundation in 1845 the school had been carried on on the same site and substantially in the same premises and enlargement thereof, and it had been maintained out of the endowment, and also from fees.

Although it had never been possible to carry out the objects of the college without charging fees, such fees were collected solely for the purpose of the objects of the college, and were not paid commercially, the whole amount thereof being applied solely towards the objects for which the college had been founded. Since 1910 the fees charged had produced a surplus of receipts over current expenditure, but such surplus had to a large extent been applied to reducing the mortgage indebtedness of the college, incurred in acquiring property and in making extensions and improvements.

The question raised in the appeal was whether the college was liable to be assessed to income tax in respect of a sum of £2,389, being a surplus of receipts over expenditure for the year ending 5th April, 1918.

There can be no question that the college was a charity, since the avowed object of its foundation was for the advancement of education. As Lord MACNAGHTEN said in his judgment in *Commissioners of Income Tax* v. *Pemsel*, 1891, A.C., at p. 583: "Charity in its legal sense comprises four principal divisions: Trusts for the relief of poverty; trusts for the advancement of education; trusts for the advancement of religion; and trusts for other purposes beneficial to the community, not falling under any of the preceding heads. The trusts last referred to are not the less charitable in the eye of the law because incidentally they benefit the rich as well as the poor, as, indeed, every charity that deserves the name must do, either directly or indirectly."

But although it was admitted in the *Brighton College Case* that the college was a charity, the further question arose whether the charity was or was not carrying on a trade, the college maintaining that no trade was being carried on, and claiming exemption under s. 37 (1) (*b*) of the Income Tax Act, 1918, which provides that exemption from, *inter alia*, tax under Schedule D is to be granted in respect of "any yearly interest or other annual payment forming part of the income of a body of persons or trust, established for charitable purposes only, or which, according to the rules or regulations established by Act of Parliament, charter, decree, deed of trust, or will, are applicable to charitable purposes only, and so far as the same are applied to charitable purposes only." The college contended that inasmuch as it was admittedly a charity, it could not carry on a trade, and any surplus of receipts over expenditure which were derived in the execution of a charitable trust, could not properly be regarded as a profit, the college further relying on the fact that such surpluses were applied for the purposes of the charity, and were not distributable at all among its members.

There is abundant authority for the view that a charity can in fact carry on a trade, and if one remembers that a trade can be carried on, notwithstanding that the persons carrying on the trade neither desire to make nor do in fact make a profit, it is difficult to imagine any ground on which it can be argued that a charity cannot possibly carry on a trade. Reference on this point may usefully be made to the *dicta* of Lord COLERIDGE, C.J., in *In re Incorporated Council of Law Reporting*, 22 K.B.D., at p. 293: "It is not essential to the carrying on of a trade" said Lord COLERIDGE, "that the persons engaged in it should make or desire to make a profit by it. Though it may be true that in the great majority of cases the carrying on of a trade does, in fact, include the idea of profit, yet the definition of the mere word 'trade' does not necessarily mean something by which a profit is made." On the other hand it would appear impossible to give any comprehensive definition of the "carrying on of a trade." Thus JESSEL, M.R., in *Erichsen* v. *Last*, 1881, 20 Q.B.D., at p. 416, said: "There is not, I think, any principle of law which lays down what carrying on trade is. There are a multitude of things which together make up the carrying on of a trade, but I know no one distinguishing incident, for it is a compound fact made up of a variety of things."

Again, the objects to which profits are applied cannot affect the question whether a trade is being carried on or not. Thus in *In re Incorporated Council of Law Reporting, supra*, it was held that a trade was being carried on, notwithstanding that, by the memorandum and articles of association, all the property and income of the association were applicable solely for the promotion of the objects of the association, i.e., preparing and publishing reports of judicial decisions, and giving digests and other publications, including the statutes, and were not to be paid to any member as dividend, bonus or otherwise. Reference again may be made to the *Mersey Docks & Harbour Board* v. *Lucas*, 8 A.C. at p. 891. There provision was made in the constitution of the Board that the moneys received by the Board were to be applied in payment of expenses, interest upon debts, construction of works, and management of the estate; that any surplus should go to form a sinking fund for the extinguishment of debts; that after such extinguishment the rates charged by the Board should be reduced, and that the moneys of the Board should not be applied to any other purposes whatsoever. The House of Lords, notwithstanding, held that the Board was liable to income tax in respect of surplus profits.

Nor is there authority wanting for the proposition that a charity may be carrying on a trade, notwithstanding that the profits are applied solely for the objects of the charity. The leading decision on this point is that of the House of Lords in *Coman* v. *Governors of Rotunda Hospital*, 1921, 1 A. C. 1. There the governors of a hospital let out certain rooms, contiguous to the hospital, for entertainment for varying periods, at charges which included the use of heating and seating, the profits from these lettings being applied to the general support of the hospital. The House of Lords nevertheless held, that the income tax under Schedule D was payable in respect of these profits, as being profits arising from a concern in the nature of trade in this case.

Again in *St. Andrews Hospital, Northampton* v. *Shearsmith* (19 Q.B.D. 624), where large yearly profits were made from wealthy patients, by a hospital founded by voluntary contributions, it was held that such profits were taxable, notwithstanding that they were applied partly towards the maintenance and treatment of the poorer patients and partly towards executing works which were required by the Commissioners of Lunacy, as being necessary to bring the hospital into a proper state of efficiency.

Two other cases may be referred to. In *Religious Tract and Book Society of Scotland* v. *Forbes* (3 Tax Ca. 415), a colportage society founded for the diffusion of religious literature sold bibles and other religious books at a depository

shop in Edinburgh, and sent out colporteurs whose duty it was to sell bibles and also to act as cottage missionaries. The sales at the shop in Edinburgh resulted in a profit, but the colportage was carried on at a loss. The operations taken as a whole also resulted in an annual loss which was met by subscription. It was held that the profits made from the bookseller's business carried on at the shop were taxable.

Finally, in *Grove* v. *Young Men's Christian Association* (4 Tax Ca. 613), a society, which had for its object the improvement of the spiritual, mental, social and physical condition of young men, established educational classes, a gymnasium and a publication department. The association also had a restaurant, which was carried on upon ordinary commercial principles and which was open not only to the members of the association but to the public as well. It was held that the association was liable to income tax on the profits made by the restaurant.

The underlying principle of both these cases may aptly be described in the words of Lord ATKINSON in *Coman's Case* (*supra*, 1921, 1 A.C. at p. 32), to the effect that "if you carry on a trade you are not to take off the losses connected with something else which you do, however philanthropic and however desirable from the profits you make in that trade."

From the above-mentioned cases, therefore, it is clear that a charity can carry on a trade, and that, at any rate, where the trades carried on are only *subsidiary* to the purposes of the charity, the profits made therefrom are taxable.

In the *Brighton College Case*, however, the college attempted to distinguish the facts in that case, it being urged that the carrying on of the school, from which the profits were derived, was not subsidiary to, but was in fact, the main purpose and object of the charity. The House of Lords, however, held that no distinction could be drawn between cases where the trade was subsidiary to, and cases where the trade was, the main object of the charity, and that the principle to be applied was the same in both cases; the surplus receipts in the latter case, being, if not profits, at any rate, *gains*, and so falling within the burden of the tax. Nor was the college able to avail itself of the provisions in s. 30 (1) (*c*) of the Finance Act, 1921, which provides that exemption shall be granted from income tax under Schedule D in respect of the profits of a trade carried on by any charity if the work in connexion with the trade is mainly carried on by beneficiaries of the charity, and the profits are applied solely to the purposes of the charity.

It is essential, in order to claim exemption under s. 30 (1) (*c*), to prove that the trade was being carried on by the beneficiaries of the charity, but this condition was not fulfilled in the *Brighton College Case*, since the trade there was being carried on by the officials and masters, who were not persons intended to be benefited by the charity, and who therefore could not be regarded as the "beneficiaries" of the charity. Section 30 (1) (*c*) of the 1921 Finance Act would appear to be meant to apply to such cases, where the objects of the charity (e.g., blind persons), themselves carried on a trade (e.g., that of making baskets), the profits derived therefrom being applied to their support and maintenance, and otherwise to the objects of the charity.

In conclusion, it should be noted, that reliance was placed on s. 37 (1) (*b*) of the Income Tax Act, 1918, whereby exemption is granted from tax under Schedule D, "in respect of any yearly interest or other annual payment forming part of the income of a body of persons or trust, established for charitable purposes only, or which, according to the rules or regulations established by Act of Parliament, charter, decree, deed of trust, or will, are applicable to charitable purposes only, and so far as the same are applied to charitable purposes only." The House of Lords, however, held that the fees received from the scholars could not be properly described as an "*annual payment*," forming part of the income of the charity, and further, that, at any rate, it was *not the fees, but the profits*, that it was sought to tax.

Liability of Non-Resident Aliens to Super-tax.

SEVERAL points of great importance in connexion with the liability of a non-resident alien to pay super-tax were decided by the House of Lords in *Whitney* v. *Inland Revenue Commissioners*, 42 T.L.R. 58. The appellant in that case, who was a citizen of and was domiciled and resident in the United States, was the owner of a large number of shares in a company registered and carrying on business in the United Kingdom. The Special Commissioners, purporting to act in pursuance of their powers, caused to be sent to the appellant in New York by registered post a notice in the usual form requiring him to make a return of his income for the purpose of super-tax. The appellant did not comply with the notice, and the Special Commissioners thereupon made an assessment to the best of their judgment. The appellant contended that a non-resident alien could not be assessed to super-tax, and that if he was at all assessable, it was only where he could be assessed in the name of a trustee, guardian, tutor, curator, committee, factor or agent, though not in his own name; that the Special Commissioners had no jurisdiction to serve on a non-resident alien, outside the United Kingdom, a notice requiring a return of income for super-tax; that, accordingly, there had been no failure to make a return, and the Commissioners therefore had no jurisdiction to make the assessment in question.

Now super-tax is chargeable at the present time under s. 4 of the Income Tax Act, 1918, which is as follows: "In addition to the income tax charged at the rate prescribed for any year, there shall be charged, levied and paid for that year, in respect of the income of any individual, the total of which from all sources exceeds £2,500"—now £2,000—"an additional duty of income tax (in this Act referred to as super-tax) at the rate or rates prescribed by Parliament for that year."

According to the above provision, super-tax is in the nature of income tax. It is an "additional duty of income tax," and it is chargeable in the prescribed cases "in addition to income tax" (see *Bowles* v. *A.-G.*, 1912, 1 Ch. 123). This is important, because it has a material bearing on the incidence of super-tax and on the interpretation of the expression "individual" in the above section. If one turns to Sched D, one finds that by r. 1 (*a*) (iii) tax under that schedule is chargeable in respect of the annual profits or gains arising or accruing "to any person, whether a British subject or not, although not resident in the United Kingdom, from any property whatever in the United Kingdom, or from any trade, profession, employment or vocation, exercised within the United Kingdom." It is clear, therefore, that non-resident aliens are liable to income tax under Sched. D. The House of Lords accordingly were unanimous that a non-resident alien was liable to super-tax, and that the expression "individual" in s. 4 would include such a person. In further support of the above conclusion at which the House of Lords arrived, it might be urged that s. 7 (2) of the Income Tax Act, 1918, expressly contemplates the liability of a non-resident to super-tax, since reference is there made to the service of a notice upon any person who is chargeable with or liable to be assessed to income tax as representing, *inter alia*, a non-resident person.

But the House of Lords was called upon to determine a further question, viz., whether, even assuming that a non-resident alien is liable to tax, he is liable, notwithstanding that he has no representative in the United Kingdom, and cannot be "reached by the Commissioners" in any other way than by service of a notice personally on him, which service must necessarily be outside the United Kingdom. If one examines the case of *Brooke* v. *Inland Revenue Commissioners*, 1918, 1 K.B. 257, which decided that a non-resident alien could be assessed to super-tax (under the Finance Act, 1910), it will be found that the assessment and notice thereof were respectively made and given at a time when the appellant

was herself in this country (*ib.*, at p. 259), and such cases as *Werle* v. *Colquhoun*, 20 Q.B.D. 753, and *Tischler* v. *Apthorpe*, 2 Tax Cas. 89 (which, however, were not concerned with super-tax), do not throw any light on the liability to tax of non-resident aliens, who are not to be found in this country and who have no representative here on whom the requisite notices may be served. All that *Tischler* v. *Apthorpe* is authority for is that the power of assessing the agent does not relieve the non-resident alien from being assessed personally when he can be served with the proper notice, i.e., when he happens to be in this country at the material times, machinery having been merely provided to get at the non-resident alien through his representative when it is not possible to get at him directly, e.g., where he is out of the jurisdiction. In *Werle* v. *Colquhoun*, the principle of *Tischler* v. *Apthorpe* was affirmed by the court, but the court, in the former case, did not determine the question whether the proper machinery had been employed: see 20 Q.B.D., at p. 760.

It is necessary to refer to the provisions of the Income Tax Act, 1918, in order to determine whether there is any machinery whereby an assessment for super-tax may be made on a non-resident alien where that alien is never at any material date in this country, and has no representative here on whom the notice may be served and the assessment made. Section 7 of the Income Tax Act is the material section. Sub-section (1) thereof provides that the assessment for purposes of super-tax is to be made by the Special Commissioners. Sub-section (2) requires every person on whom notice is served to make a return of his total income from all sources, and this sub-section equally applies to persons who represent, *inter alia*, a non-resident person. Sub-section (3) enacts that it shall be the duty of a person, chargeable with super-tax, to give notice thereof to the Commissioners. Sub-section (4) inflicts a penalty on all persons who, without reasonable excuse, fail to make a return or to give notice to the Commissioners. And finally, s-s. (5) provides that, if any person fails to make a return, or if the Special Commissioners are not satisfied with the return made, they may make an assessment of super-tax according to the best of their judgment. The obligation to make a return (s-s. (2)) and to give notice to the Special Commissioners of being chargeable to super-tax (s-s. (3)), obviously cannot apply to persons who are not within the jurisdiction, at any rate, if they happen to be aliens, and similarly, the penalty in s-s. (4), for failure to make a return, cannot apply in such a case. On these questions the House of Lords appear to have been unanimous in *Whitney* v. *Inland Revenue Commissioners*, *supra*.

According to the minority judgment of the House in that case (the Lord Chancellor and Lord Phillimore), it was considered that inasmuch as s-ss. (2), (3), (4) of s. 7 of the Income Tax Act, 1918, were inapplicable to an alien who was outside the jurisdiction, there could not be said to have been any "failure" to make a return within the meaning of s-s. (4). The Lord Chancellor and Lord Phillimore were further of opinion that the jurisdiction given by s-s. 5 to the Commissioners to make an assessment according to the best of their judgment only arose where there had been such failure, and that therefore in the circumstances the assessment which the Commissioners had purported to make was invalid. "Now the power," the Lord Chancellor said in his judgment, "given by s-s.(5) to the Special Commissioners to make an assessment to super-tax 'according to the best of their judgment' is contingent on 'failure' to comply with the obligation to make the return under s-s. (2), and I see no escape from the conclusion that where no such obligation exists, there can be no such 'failure' to comply with it, and that accordingly that in such a case an assessment under s-s. (5) cannot be made."

This view however was not shared by the majority of the the House of Lords (consisting of Lords DUNEDIN, WRENBURY and CARSON), who were of opinion that as such provisions, e.g., s-ss. (2), (3) and (4) of s. 7 of the Income Tax Act, were merely machinery as aid to the Commissioners in augmentation of the powers of the revenue and not in limitation of them; that the Commissioners derived their jurisdiction to assess for purposes of super-tax from s-s. (1) of s. 7 of the Finance Act, 1918, which was in no way limited by s-ss. (2), (3) and (4), although the requirements of those sub-sections had to be adhered to in appropriate cases. "Once that it is fixed that there is liability," said Lord DUNEDIN in his judgment, "it is antecedently highly improbable that the statute should not go on to make that liability effective . . . There are three stages in the imposition of a tax: there is the declaration of liability, that is the part of the statute which determines what persons in respect of what property are liable. Next there is the assessment. Liability does not depend on assessment. That, *ex hypothesi*, has already been fixed. But assessment particularises the exact sum which a person liable has to pay. Lastly, comes the method of recovery, if the person liable does not voluntarily pay." Referring to the above argument advanced by the Lord Chancellor that inasmuch as s-ss. (2) and (4) do not apply to a non-resident alien, there cannot, therefore, be said to be any failure to pay, Lord DUNEDIN continues, "that is tantamount to making liability dependent on failure to make a return, and yet *ex hypothesi* a liability is already established. But my real reason for differing from my noble and learned friend is that I look on these sub-sections as mere aids to the Special Commissioners in their task and not as conditions of their power. That power is to my mind conferred by s-s. (1). As in the cases of *Tischler* and *Werle*, *supra*, it was held that the power given to charge a resident abroad in the name of a person acting on his behalf in the United Kingdom did not prevent a direct assessment on that person if he was in effect found in the United Kingdom, so by analogy, I think that the failure of some of the provisions of the succeeding sub-sections to fit a particular case does not prevent the Special Commissioners proceeding under the power of s-s. (1). It is, I think, apparent that the Special Commissioners are bound, if they can, to adopt the methods provided by the succeeding sub-sections, and so I think indeed they have done . . . I read 'failure' in the sense of '*de facto* did not make' not in the sense of 'contrary to law did not make' . . . But quite apart from that I think that under s. 1 they were entitled to assess. I lay stress on that for this reason. It might have been that the notice never reached him. I think that the Commissioners could still have been entitled to assess."

The House of Lords, in *Whitney* v. *Inland Revenue Commissioners*, have therefore upheld the principle underlying the decision of Mr. Justice ROWLATT in *Inland Revenue Commissioners* v. *Huni*, 1923, 2 K.B. 563, to the effect that a notice requiring the person served to make a return of his income for the purpose of super-tax, and also a notice of assessment to super-tax when made, can be validly served by post on a non-resident out of the United Kingdom, since the real question in that case was whether there was machinery in the circumstances to fix the liability for super-tax on non-resident aliens, who had no representative in this country, and who at all material times were outside the jurisdiction (1923, 2 K.B., at pp. 570, 571). Incidentally reference may usefully be made to the following passage in Mr. Justice ROWLATT'S judgment. "When it comes to a question," says the learned judge (*ib.*, at pp. 571-572), "of imposing a duty or creating an offence abroad, both of which can be done by Parliament, at all events in the case of British subjects, the courts are bound to look narrowly at the statute to see whether that is what is meant. But no difficulty of that sort arises if what the statute really directs is the mere service of a notice and nothing more. There is no international difficulty involved in serving a notice abroad, so that if a statute said that a person was to have a notice of dishonour of a bill served upon him abroad, or a similar kind of notice, it could not be suggested

that any difficulty would arise. The notice may have consequences, but all the same it is a mere notice."

The conclusion, therefore, to be derived from *Whitney* v. *Inland Revenue Commissioners* and *Inland Revenue Commissioners* v. *Huni* are: Firstly, that a non-resident alien may be liable to super-tax in his own name, and that it is immaterial whether he has a representative in this country or whether he has at any material times been within the jurisdiction, for the purpose of being served with the requisite notice; secondly, that in such cases, the Special Commissioners may, as far as possible, adopt the machinery provided by s-ss. (2)-(4) of s. 7 of the Act of 1918; and, thirdly, that a notice served on a non-resident alien outside the United Kingdom will be regarded as a good notice for the purpose of s. 7 of the Income Tax Act, 1918.

Report of the Departmental Committee on Sexual Offences.

THE Report of the Departmental Committee on Sexual Offences is now available. From a perusal of the report, it appears that, although there has been a considerable decrease in the commission of the offences of rape and defilement of young girls in latter years, as compared with the annual average 1909-1913, the total annual averages of sexual offences against persons of all ages have steadily increased. The Committee at the same time point out that there are many more sexual offences committed against young persons than are actually reported, and that the proportion of acquittals on prosecution for such offences is high.

Of the alterations which are recommended by the Committee, the following, in particular, may be noted: With regard to the trial of offences of gross indecency when the offence is committed by male persons with young persons of either sex under sixteen, that such offences should be triable summarily in the same way as indecent assaults on young persons, and that the young person should not be prosecuted for being concerned in the offence; that in cases where a husband has been convicted of incest, carnal knowledge, or of the attempt thereof, on one of his own children, or of a grave indecent assault upon one of his daughters, a court of summary jurisdiction should be empowered to grant the wife a separation, with custody of the children, maintenance and costs; that it should be an offence to have unlawful carnal knowledge of a girl under seventeen; and that the age of consent should be raised to seventeen; that the defence of reasonable belief that the girl was sixteen or over should be abolished, but that, where there are extenuating circumstances, a young man found guilty on indictment and placed on probation should not have a conviction registered against him; that the time limit for taking proceedings under s. 5 of the Criminal Law Amendment Act, 1885 (carnal knowledge of girl between thirteen and sixteen), should be extended from nine months (see Criminal Law Amendment Act, 1922, s. 2) to twelve months.

With regard to the enlargement of the jurisdiction of the lower courts, the Committee recommend that the petty sessions should be given jurisdiction to try offences of gross indecency, committed by a male person against a young person under sixteen, and also offences of attempted carnal knowledge of girls under sixteen, and attempted incest, and that Quarter Sessions should be empowered to try charges of all sexual offences against young persons, at present triable only at Assizes, but only where the Quarter Sessions are presided over by a Recorder or by a Chairman or Deputy Chairman who has had professional legal experience.

The above are the recommendations made by the Committee for the alteration in the law and in the jurisdiction of the court; and their other recommendations refer, *inter alia*, to the administration of the law, to provisions for child welfare and preventive measures.

A Conveyancer's Diary.

NOTICES UNDER THE L. P. A., 1925—(*continued*).

The regulations respecting the manner of giving notices contained in s. 196 of the L. P. A., 1925, are immediately followed by four important sections, which in effect provide how notice of particular facts or transactions is acquired in certain circumstances.

Notice of Memorials Registered in Middlesex and Yorkshire.

Section 197 contains a new provision to the effect that registration in a local deeds registry of a memorial of any instrument transferring or creating a legal estate or charge by way of legal mortgage is to constitute actual notice of such estate or charge to all persons and for all purposes as from the date of registration. This provision does not have the effect of making registration of a memorial of an instrument which is not registrable operate to give notice of such instrument: s. 197 (1); and see s. 11 (1). Registration in a local deeds registry is not necessary unless the instrument operates to transfer or create a legal estate or charge: s. 11 (1). And, of course, it will be noticed that s. 197 relates only to "memorials" of instruments; it does not require the *estate* created by the instrument to be registered like a land charge. For example, land in Middlesex or Yorkshire is affected by a "puisne mortgage"; a *memorial* of the mortgage will be registered in the local deeds registry. When this is done there will be no need to register the mortgage as a land charge, Class C: L. C. A., 1925, s. 10 (1), Class C (i). Had the land so affected been situated elsewhere than in Middlesex or Yorkshire, the puisne mortgage itself would have had to be registered as a land charge, Class C. Inasmuch as (i) s. 197 in effect relates only to legal estates, and (ii) that, with the exception of the special provision relating to further advances (s. 94) and priority of puisne mortgages (s. 97), notice does not affect priority of legal estates, the general practical effect of s. 197 is not so important or far-reaching as that of s. 198.

Notice by Registration under the Land Charges Act, 1925.

Registration of any instrument or matter under the provisions of the L. C. A., 1925, is deemed to constitute actual notice of such instrument or matter, and of the fact of such registration, to all persons and for all purposes connected with the land affected. It has this effect as from the date of registration or other prescribed date and so long as the registration continues in force: L. P. A., 1925, s. 198 (1). The importance of this provision will immediately be appreciated when it is realised (*a*) that every mortgage affecting a legal estate in land made after the 1st of January last, and whether legal or equitable (not however being a mortgage protected by deposit of documents relating to the legal estate affected), will rank according to the date of registration as a land charge: L. P. A., 1925, s. 97. This, however, is subject to the right to make further advances having priority in certain cases conferred or recognised by s. 94 (1); and (*b*) that the priority of competing interests in all equitable interests—in realty or personalty—is now governed by the rule in *Dearle* v. *Hall*, 1823, 3 Rus. 1: L. P. A., 1925, s. 137 (1). Under this rule, as extended, the priority of competing equitable interests depends on the date of notice given to, or received by, the trustee or legal owner, and not on the date of creation or assignment of such interests. Henceforth, there are three ways in which, say, a purchaser of a legal interest may acquire notice of an equitable interest affecting that estate: (i) he may receive express information of the equity; (ii) he may acquire constructive notice as restricted or defined by s. 199 of the L. P. A., 1925; or (iii) he may, as we have seen, be deemed to have actual notice from the mere fact of the interest, being registrable, having been registered by the L. C. A. The difficulty is that notices received in these three ways do not always have the same effect. In particular, express or

constructive notice of any equitable interest registrable under the L. C. A. will not bind a purchaser of the legal interest affected by such equitable interest if it has not actually been registered under the Act. The position briefly put is this: a *bonâ fide* purchaser of a legal estate for value without notice of any equitable interest affecting such legal estate takes the legal estate clear of all equities. He may acquire notice expressly or constructively, or it may be imputed to him by the fact of its registration as a registrable land charge. If he has acquired notice in one of those ways he is bound by the equitable interest, provided, however, that if the interest should have been registered as a land charge and was not, it does not bind him.

Landlord and Tenant Notebook.

Claims arising out of the Rent Act.

In view of an important and recent decision of the Court of Appeal in *Lee* v. *Roberts*, 159 L.T. 531, care must be taken in determining whether proceedings in relation to premises which come within the Rent Acts should be brought in the High Court or in the County Court. It will be remembered that s. 17 (2) of the Rent Act of 1920 confers a new jurisdiction on the County Court in cases where the claim or proceeding *arises out of* the Rent Act, and the policy of the Legislature has been to confine such cases to the County Court, and to the County Court alone. To achieve this, provision was made in s. 17 (2) of the Rent Act of 1920, to the effect that a person who brought proceedings in the High Court which he could have brought in the County Court, by virtue of s. 17 (2), should not obtain any costs, if successful. Difficult questions have arisen and still arise as to whether the claim in question arises out of the Rent Act or not, and the leading case to which reference should be made for this purpose is of course *Rusoff* v. *Lipovitch*, 1925, 1 K.B. 625, where it was held that a claim for possession of premises against a tenant holding over by virtue of the Rent Acts, was a claim or proceeding arising out of the Act. The principle of this case would appear to be that where reliance has to be placed on any provision in the Rent Act, then the claim comes within s. 17 (2), so that it is obvious that a claim for possession against a tenant holding over under the Rent Act must be such a claim, inasmuch as the landlord cannot obtain possession, unless he can make out a case under one or more of the paragraphs in s. 4 "5" (1) of the 1923 Act. *E converso*, where it is not necessary to rely on any provision in the Rent Acts, the claim will not fall within s. 17 (2). A good instance of such a claim is a claim in ejectment against a trespasser, e.g., a squatter, and as an authority for this reference may be made to *Gunter* v. *Davis*, 1925, 1 K.B. 124. The decision of the Court of Appeal in *Lee* v. *Roberts* appears, however, to be somewhat surprising, since the court was there of opinion that a claim for damages for breach of covenant to repair was a claim arising out of the Rent Acts. Inasmuch, however, as this was not essential to the decision of the court in that case, it may be regarded as *obiter*. It is difficult to conceive how a claim for dilapidations pure and simple, where the premises are within the Rent Acts, can be a claim within s. 17 (2), since the claim of the lessor is based entirely on the contract he has entered into with his tenant, and does not arise out of the Act. Even if there is a dispute as to whether the tenant was liable for the repairs, the tenant urging some such objection, as for example, that the previous tenant was never under an obligation to do the repairs and that therefore there was a transfer of a burden from the landlord to the tenant, there seems no reason for holding that the claim of the landlord is a claim arising out of the Act, and that he is to be deprived of his costs if successful, since, if he succeeds on this issue, he is not seeking the assistance of any provision in the Rent Act at all. Section 17 (2) is a difficult section, which has been made even more difficult by reason of some of the judgments thereon.

LAW OF PROPERTY ACTS.
Points in Practice.

In this column questions from Annual Subscribers are invited and will be answered by an eminent Conveyancer. All questions should be addressed to—The Assistant Editor and Manager, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4. The name and address of the Subscriber must accompany all communications, which should be typewritten (or written) on one side of the paper only, and be in triplicate.

PRESCRIPTION ACT—AGREEMENT AS TO WINDOWS.

86. *Q.* K and R are adjoining landowners in Yorkshire. In 1910 R built on his land close to K's boundary, and to avoid K blocking the light of the windows overlooking K's land, R signed an agreement acknowledging that he enjoyed such right by K's permission, and agreeing to pay 1s. a year if demanded. Under the new Acts must or can this agreement be registered to preserve K's rights? If so, against whom can it be registered? R has recently sold the property.

A. The exact nature of the agreement is a material factor in the answer to this question: see the distinction made by Cozens-Hardy, M.R., in *Smith* v. *Colbourne*, 1914, 2 Ch. 533, at pp. 539, 540, differentiating that case from *Bewley* v. *Atkinson*, 1879, 13 C.D. 283. For the present purposes, however, it will be assumed that K only gave R a licence revocable at will, with or without notice. The position of R's assignee is discussed in *Smith* v. *Colbourne*, *supra*, the general effect being that he is neither bound by the agreement nor entitled to the advantage of it. As to registration, the person to register would be R's successor in respect to his easement under the L.C.A., 1925, s. 10 (1) Class D (iii), but the registration of an easement terminable at will is obviously useless, and presumably would not be accepted. The agreement would not be registrable under the Registration of Tithe (Yorkshire) Act, 1884, not being an "assurance" within that Act: see *Rodger* v. *Harrison*, 1893, 1 Q.B. 161.

From *Smith* v. *Colbourne*, *supra*, it would appear that R's successor is bound by the agreement, at least for the purposes of the Prescription Act, 1832, s. 3, until he denounces or repudiates it, but the more prudent course for K would be to call upon him either to adopt it or accept a similar licence (in writing in either case) or suffer his windows to be blocked.

VENDOR AND PURCHASER—NOMINEE—LEGAL ESTATE.

87. *Q.* K and C were partners. In 1924 property in Yorkshire was conveyed to B. It was subsequently arranged with B that K and C should take the property over, but that B should continue to hold it as nominee for the partnership. The purchase money was entirely found by K. K and C have now dissolved partnership, and it has been agreed between them that C shall take over the property and that the purchase money shall be repaid to K by yearly instalments commencing 30th September, 1926. In whom did the property vest on 1st January, 1926? If in C, should any (and if so, what) documents be prepared to evidence this, and what steps should K take to secure his unpaid purchase money?

A. K, having paid for the property (whether B or his vendor is not quite clear from the question), has *primâ facie* as against B an equity to have it conveyed to him, but if, in fact, he paid B, the transaction is really a purchase by him from B. The distinction is important, for if B was K's nominee from the first, the legal estate would, as between B and K, have vested in K on 1st January, 1926, by virtue of the L.P.A., 1925, 1st Sched., Pt. II, paras. 3 and 6 (*d*). If, on the other hand, K was merely a purchaser from B who had not chosen to take a conveyance, the case would come within the exception in para. 7 (*j*), and the legal estate would remain in B. As between C and K, para. 7 (*j*) will also apply. Thus the legal estate has either remained in B or shifted to K, according to the circumstances. C's agreement to take over the property is probably not registrable as an "assurance" under the Yorkshire Acts: see *Rodger* v. *Harrison*, 1893, 1 Q.B. 161. If

it were, such registration would suffice for all purposes (see L.C.A., 1925, s. 10 (6)), but if not, C should register it against B and K or K only, as the case may be, under the L.C.A., s. 10 (1), Class C (iv), as an "estate contract." If B retains the legal estate K should also register his agreement to purchase as an estate contract.

UNDIVIDED SHARES—INFANT BENEFICIARIES—PUBLIC TRUSTEE.

88. *Q.* Immediately before the commencement of the L.P.A., 1925, one undivided moiety of land is vested in trustees upon trust for sale and the other undivided moiety is vested in A absolutely and beneficially. It is apprehended that under the 1st Sched. to the Act, para. 1 (4) the entirety of the land has vested in the Public Trustee. In ascertaining who are "the persons interested in more than an undivided half of the land or the income thereof" for the purposes of the provisoes to sub-para. (4), are the trustees of the moiety or the beneficiaries the persons interested? Is the decision in *Stace* v. *Gage*, 1878, 8 C. D. 451, under the Partition Acts, applicable? If the beneficiaries are the parties interested, what is the position as regards infants, etc.? Unless the point is elucidated somewhere in the Acts a decision of the court would seem to be necessary.

A. There can be no reasonable doubt that any beneficiary has an interest in land, so that if A can find a beneficiary *sui juris* interested in the other half ready to concur with him, the two can exercise the power given by para. 1 (4) (iii). The question whether, if all the beneficiaries in the second moiety are infants, their trustees are "persons interested" within this provision is one of more difficulty, but the references in the Partition Act, 1868, to "persons interested," ss. 3, 4, 5, etc., make the case cited above in point. But see *Simpson* v. *Denny*, 1878, 10 C. D. 28, where trustees were held not to be persons interested, but to be competent to represent them under O. 16, r. 8. And in the converse case of justices having an interest in the subject-matter of proceedings before them, it has been held that justices who are trustees have no such interest: see *R.* v. *Rand*, 1866, L. R. 1 Q. B. 230. On the whole, however, a court would no doubt strive against ruling that it was obliged to appoint where, by a not unreasonable interpretation of the statute, there were persons competent to appoint, and the opinion here given is that trustees are "persons interested" within L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (4), (iii), but the assumption may be more safely made when there is a decision to that effect. The fact that the expression used is "interest" rather than "beneficial interest" is also helpful: see *re Ives*, 1876, 3 C. D. 690.

UNDIVIDED SHARES—SETTLED LAND.

89. *Q.* A B by his will, proved on 4th June, 1910, appointed his son and daughter trustees. Both trustees are living. Testator gave the income of his estate to his said son and daughter in equal shares. Power of sale is only given to the trustees after the death of the son or daughter. The trustees have entered into a contract to sell a freehold property forming part of the trust estate. Completion of the purchase is to take place in January, 1926. The contract is made subject to the sanction of the court being obtained. Having regard to the provisions of the S.L.A., 1925, and L.P.A., 1925, is it necessary to obtain the sanction of the court, and if not what step should the trustees take in order to obtain a valid power of sale. If this should be done by a vesting declaration what stamp duty is attracted? The trustees are not appointed trustees for the purposes of the Settled Land Acts, 1882 to 1890?

A. It is assumed that the son and daughter take life interests only in the property. The questioner does not make it clear why the sanction of the court is sought, for the son and daughter could sell as tenants for life, and they are in fact trustees for the purposes of the Acts: see S.L.A., 1890, s. 16 (ii), and *re Jackson's Settled Estate*, 1902, 1 Ch. 258. In the L.P.A., 1st Sched., Pt. IV, para. 1 (3), it is provided that settled land held in undivided shares shall vest in the trustees on trust for sale. But para. 1 (10) preserves the rights of the purchaser under the existing contract. If this contract is made subject to the consent of the court, the purchaser's rights will depend on that consent being given. He is also entitled to require it, but if, as would appear, a good title can be made without it, the contract with the consent of both sides may be varied by dispensing with it.

TRUSTEES FOR FRIENDLY SOCIETIES—TENANCY IN COMMON.

90. *Q.* Freeholds conveyed to four bodies of trustees as tenants in common; each body holding an unequal share as trustees for a friendly society. Are the trustees "persons interested" capable of appointing trustees of and vesting the entirety? Each society will nominate a trustee.

A. Such an arrangement, without any trust or power of sale of the whole must surely be as unusual as it appears to be inconvenient. For the purposes of the answer, however, it must be assumed that all has been done rightly, although the respective groups of trustees have had divided dominion over their property (*primâ facie* against the spirit of such cases as *Webb* v. *Jonas*, 1888, 39 C.D. 660), and could not sell when they wished, except their own undivided shares: see ss. 47 (1) and 106 of the Friendly Societies Act, 1896. The tenancy in common now disappears, and, since all the property is not vested in all the trustees, para. 1 (4) of Pt. IV of the 1st. Sched. of the L.P.A., 1925, applies. As to whether trustees are "persons interested" within para. 1 (4) (iii), see answer to Q. 88, *supra*.

INFANT HEIR AND DOWER.

91. *Q.* What will be the position after 1925 when a husband has died intestate before 1926, leaving a wife and infant sons, and having possessed freehold land? Will the wife be able to deal with the land? What are the rights of the eldest son?

A. The heir would be entitled, subject to the wife's right of dower, if not barred. The matter is dealt with when the heir is an infant by s. 1 (2) and (3) of the S.L.A., 1925. If the land is vested in the widow as administratrix she must appoint a co-trustee as required by s. 30 (3) of the Act, and then execute a vesting deed in favour of herself and co-trustee as required by paras. 2 (1) and 3 (4) of the 2nd Sched. of the Act. She and her co-trustee will then have all the powers conferred on them by s. 26 during the heir's minority.

SURVIVING JOINT TENANT—SALE.

92. *Q.* Under the provisions of the new legislation, a conveyance to husband and wife beneficially, as joint tenants, operates to make them trustees for sale. It has been seriously contended that, upon the death of one of the spouses, it is necessary for another trustee to be appointed, so as to receive the purchase money, in order to give effect to the statutory trust for sale. With this view we have disagreed, basing our opinion upon the last two lines of s. 27 (2) of the L.P.A., 1925. In our opinion capital money would not arise under such a transaction, as the survivor of the spouses would be beneficially entitled to the purchase money, and capital money ordinarily means in legal terms, where, as such, it is liable to be invested in order that the income therefrom may be paid for life or for any less period to a beneficiary. Alternatively, if the case is not met by the sub-section referred to, a conveyance by the survivor, as beneficial owner, would imply that he or she had elected to take and deal with the property in specie, there being nothing in the Acts to say that a single trustee cannot convey to beneficiaries if they call on him to do so.

A. Whether the purchase money in the above question is capital money or not, it is assuredly the proceeds of sale of money arising under a disposition on trust for sale, and

if the questioner refers to s. 14 (2) (*a*) of the T.A., 1925, he will see that a sole trustee, other than a trust corporation, cannot give a receipt for it. Having regard also to the proviso to s. 36 (2) of the L.P.A., 1925, it would be an exceedingly dangerous assumption for a purchaser that the surviving joint tenant of the legal estate was also absolutely entitled to the beneficial interest. The vendor might of course try to tie the purchaser down by condition to accept the equitable title, but such a condition would be void: see s. 42 (1) (*a*) of the L.P.A., 1925. Section 23 as a way out, even if applicable otherwise than in cases within s. 28 (3), seems hardly applicable here, because the surviving trustee-beneficiary cannot convey to himself or herself. The conclusion then appears to be that a new trustee must be appointed to sell, unless the purchaser waives his rights.

SETTLED LAND—TRUSTEES.

93. *Q.* A by his will in 1897 (proved in 1899) devised four cottages to his trustees B and C, upon trust to receive rents, and after making certain payments to pay net income to D for life, afterwards to any widow D might leave for life, and afterwards his trustees were to hold said cottages upon trust for all the children of D attaining twenty-one. All the children of D have attained twenty-one, D is dead, and his widow is receiving the rents. B is dead, and a new trustee, E, has been appointed by C. The estate of A has been fully wound up and distributed, with the exception of these cottages. It is desired to know what was the position on 1st January last.

(1) Are C and E trustees for the purposes of the S.L.A., 1925?

(2) If not, can D's widow and the children of D (all of whom are of age) appoint C and E to be trustees for the purposes of the S.L.A., 1925, under s. 30 (1) (v) of the S.L.A., 1925? Will it make any difference if one of the children is dead?

(3) Alternatively, is C, as surviving personal representative, a trustee for the purposes of the S.L.A., 1925, under s. 30 (3) thereof? If so, he could apparently appoint E as an additional trustee for such purposes, and thus everything will be in order.

(4) Failing any of the above, who can appoint such trustees?

(5) Are we right in assuming that on the death of D's widow the property will vest in C and E as trustees upon trust for sale, whether or no a vesting deed is previously executed?

A. (1) The will is not sufficiently recited to show whether the trustees C and E fall under any of the provisions in s. 30 (1) (i) to (iv) of the S.L.A., 1925. Otherwise they are not trustees for the purposes of the S.L.A., 1925, unless appointed under s. 30 (1) (v), or C appoints E under s. 30 (3).

(2) Yes. In the case of one or more children being dead, their legal personal representatives have a power in equity to dispose of their interests and so with the widow and surviving children can exercise the power conferred by s. 30 (1) (v).

(3) This would be so if the provisions of s. 30 (1) failed to establish trustees for the purposes of the Act.

(4) If there are no trustees for the purposes of the S.L.A., 1925, and no one able or willing to appoint them, the court can do so under the 2nd Sched. of the Act, para. 1 (3).

(5) If there has been a vesting deed vesting the property in D, then on her death it vests in the trustees as her special legal personal representatives under s. 22 of the A. of E. A., 1925, and they hold under the statutory trusts under s. 36 (2) of the L.P.A., 1925.

If there has been no vesting deed the land has nevertheless vested in D by virtue of the L.P.A., 1st Sched., paras. 3 and 6 (c), and the same result follows.

THE CITY OF YORK—REGISTRATION.

94. *Q.* In the City of York there is no registration at the present time. What effect (if any) has the new law as to registration upon conveyances, mortgages and charges of land in the said City of York after 1925? Should second mortgages and charges on land in the said city be registered to preserve their priority, or is merely notice still sufficient after 1925 (both in the case of those prior and those subsequent to 31st December, 1925)?

A. So far as the Yorkshire Registries Acts do not apply to the City of York, land within its boundary will be governed by the general law. So far as such land has not been placed upon the Land Registry, the L.C.A., 1925, will apply, and also ss. 198 and 199 of the L.P.A., 1925. The charges registrable under the L.C.A., 1925, are enumerated in s. 10.

UNDIVIDED SHARES—SOLE TRUSTEE.

95. *Q.* Land is vested in A (by conveyance on sale) in fee simple free from incumbrances. The purchase price was, in fact, however, paid by himself and four others in certain (unequal) shares, and A has executed a declaration of trust in favour of himself and co-equitable owners which it has not been necessary hitherto to disclose on the title. If it is to be the practice in future to require a vendor to make a declaration that he is absolutely and beneficially entitled, A could not make that declaration and the equitable interests do not appear to be such as by s. 2 (1) of the L.P.A., 1925, would be over-reached by a conveyance by A. On the other hand, the legal estate would not appear to shift from A to the equitable owners by reason of Pt. II of the 1st Sched., para. 3, of the Act, because by para. 7 (*f*), Pt. II is not to operate to vest any legal estate in a person for an undivided share.

What should be done to keep the equities off the title?

It has been suggested that in such a case A should convey before 31st December to himself and another, as trustees for sale, to hold proceeds upon trusts of a deed of even date. By s. 2 (2) of the Act that will not operate to enable a conveyance by A to over-reach the equities unless the trustees are approved by the court or are a trust corporation. If a conveyance to trustees for sale with a contemporaneous trust deed is nevertheless the right solution, a reference to precedents of these deeds will oblige.

A. The entirety of the land, being vested in A as trustee, para. 1 (1) (*b*) of Pt. IV, of the L.P.A., 1925, applies, and he holds on the statutory trusts set forth in s. 35 of the Act with ancillary powers: see ss. 23-33. He cannot however sell, because he cannot give a receipt for the proceeds of sale: see T.A., 1925, s. 14 (2) (*b*). He must, therefore, appoint another trustee or trustees under s. 36 (6) of the T.A., 1925.

Such a declaration as that suggested in the question as a future practice could serve no useful end, for it is always implied in the case of a vendor selling as beneficial owner unless qualified in the conveyance—sometimes even, indeed, if a defect in title appears on a conveyance: see *Page* v. *M. R. Co.*, 1894, 1 Ch. 11.

COMPANY—DEBENTURE TRUST—CHARGE ON FREEHOLDS.

96. *Q.* X, a limited company, are the owners of numerous freeholds. Before 1926 X executed a first mortgage debenture trust deed, whereby all the freeholds were conveyed unto and to the use of the trustees of the deed in fee simple. The deed also contains the following clause:—

"The company as beneficial owner hereby charges as and by way of first fixed and specific charge in favour of the trustees all other the freehold premises of the Company present *and future* and the company hereby covenant with the trustees that the company will from time to time execute all such conveyances of such freehold premises to the trustees *as the trustees may from time to time require* for the purpose of vesting the said premises in the trustees to be held by them as part of the specifically mortgaged premises." Since the date of the trust deed the company have purchased freeholds.

Having regard to the fact that the trustees have the right to *require* the legal estate to be conveyed to them, and in view of the L.P.A., 1925, Sched. II, Pt. II, para. 3, did the freeholds vest in the trustees on 1st January for a term of 3,000 years, or will the Act have no effect in this case?

A. Mortgages on freeholds subsisting on 1st January come under Pt. VII and not Pt. II of the Schedule. The trustees, having the right to call for the legal estate, have an equitable mortgage which, if it is the first or only one, gives them the term of 3,000 years under para. 1, but if a puisne mortgage gives them the term of 3,000 years, plus one day less than its priority, i.e., a second mortgagee takes 3,000 years, plus one day, a third 3,000 years, plus two days, and so forth.

The priority of the mortgage will thus be fixed on 1st January in respect of property then owned by the company. As to property afterwards acquired by the company, see L.C.A., 1923, s. 10 (5), which gives notice under s. 198 of the L.P.A., 1925, to all persons dealing with the company of the charge in favour of the debenture trustees. Since a vendor's equitable lien will not affect a purchaser without notice, it is to be presumed that to this extent the new law will over-rule such a case as *Wilson* v. *Kelland*, 1910, 2 Ch. 306.

Reviews.

Hayes and Jarman's Concise Forms of Wills. With Practical Notes. 15th Edition. By CLAUDE EUSTACE SHEBBEARE. London: Sweet & Maxwell, Ltd. cxxxii and 501 pp. £2 2s.

The first edition of Hayes and Jarman appeared as far back as 1835, when it was described by the authors as "a portable volume of short forms . . . originated with a view to general applicability, and illustrated by succinct statements of the law upon points of frequent occurrence." The bulk and character of the book have changed considerably since those words were written. As the editor of the fifteenth edition remarks, the work "is now quite as much a book of case law as a book of Precedents, and what was once a little book of forms with notes has tended to become a large book of notes with forms." The principal features of the fifteenth edition are: a Table of Cases, in which the names of well over 3,000 cases appear; (2) a reprint of the Wills Act, 1837, each section being followed by an admirable practice note on the effect and interpretation of such section; (3) dissertations—revised and brought up to date—on, *inter alia*, the Practical Effect of the Wills Act, and Suggestions for Preparing Wills; (4) concise Forms of Wills, with practice notes on each form and on various clauses therein; (5) an Appendix containing, *inter alia*, a Dissertation on Intestacy and the Statutory Will Forms, 1925. The authority of Hayes and Jarman is recognised, and one need only remark that the task of revision—which of course has been tremendous—has been carried out in a manner worthy of the earlier editions of the book.

The Law and Practice of Hall-marking Gold and Silver Wares, with a Chapter on the Licences to be taken out by Auctioneers, Pawnbrokers and Dealers in Gold and Silver Plate; by J. PAUL DE CASTRO, 1926. London: Crosby, Lockwood and Son; xiv and 372 pp. £2 2s. net.

This work, we are told in the preface, was prepared at the instance of certain silversmiths and goldsmiths, and is designed for the convenience of manufacturers and for the assistance of dealers in gold and silver plate. And, of course, collectors of antique silver cannot but profit by a perusal of it.

The book is divided into three parts. Part I, which occupies some 170 pages, deals instructively with such interesting matters as the Trend of Legislation pertaining to Gold and Silver Wares, 1300-1925; Kinds of "Marks"; Exemptions from Marking; Assay Offices; Methods of Assay; Frauds and Offences; and Licences to deal in Plate. Part II (pp. 171-231) contains reports in abridged form of the leading cases, civil and criminal, upon the subject of Hall-marking. And in Part III we have, conveniently arranged together, the various statutes, revised and annotated, relating to the subject. Some thirty odd plates of famous marks, plates, etc., are distributed throughout the book.

The whole work betokens indefatigable industry, the results of which are interestingly presented; the volume is a standard work of instruction on an attractive subject.

Moore on Title. Sixth edition. Re-arranged with Considerable Additions and with an Entirely New Part on the Alterations in the Law Affecting Title after 1925. By E. E. H. BRYDGES, M.A., and WALTER BANKS. London: Butterworth & Co. 25s. net.

In preparing a new edition of "Moore on Title," the editors have retained practically the whole of the matter of the fifth edition (published in 1911), with such alterations as were necessary to bring it up to date. They have then added an entirely new part dealing with the recent property legislation. The old and the new parts are connected together by frequent cross references in one to the other. A novel and convenient feature of the second part is a chapter giving all the definitions contained in the new Acts and arranged in alphabetical order. A special section has been added relating to the vesting of legal estates on the 1st January.

Books Received.

Minnesota Law Review. Journal of The State Bar Association. Vol. 10, December, 1925, No. 1. Minnesota Law Review, Minneapolis, Minn. 60 cents.

Odgers' Principles of Pleading and Practice in Civil Actions in the High Court. Ninth edition. W. B. ODGERS, M.A. Stevens & Sons, 119 and 120, Chancery-lane, W.C. 15s.

Justice and the Poor in England. An account of the position of the poor in legal matters in England and Wales; and a study of the administration of justice where they are concerned, and of the remedies which have been attempted and suggested. F. C. G. GURNEY-CHAMPION, with a foreword by The Right Reverend The Lord Bishop of Manchester, The Right Reverend The Bishop of Pella, The Reverend Dr. J. Scott Lidgett and Miss Lucy Gardner. George Routledge & Sons Limited, 68/74, Carter-lane, E.C.4; the Law Notes Publishing Office, 25-26, Chancery-lane, W.C.2. 7s. 6d.

Obituary.

[Notices intended for insertion in the current issue should reach us on Wednesday morning.]

Mr. F. E. HANNAY.

The death has occurred at South Shields of Mr. Frederick Ernest Hannay, a well-known solicitor of that town, at the comparatively early age of fifty-five. Mr. Hannay had been in indifferent health for some time, but was able to attend to his professional duties until quite recently. He was, however, taken seriously ill just after Christmas and passed peacefully away in his sleep on Saturday last. A son of Mr. George Hannay (for many years manager of the South Shields branch of Messrs. Hodgskin, Barnett, Pease & Spence), he served his articles with Mr. R. W. C. Newlands, Jarrow, was admitted in 1892, and at first practised alone in South Shields, but a few years later took his brother, Mr. Erskine Hannay, into partnership, and under the style of Hannay & Hannay, they carried on an extensive practice at South Shields, Newcastle and Hepburn. The deceased was keenly interested in public matters, but never entered public life. His large-hearted sympathy and benevolence was well known and found practical expression in many forms. Closely identified with the work of the National Society for the Prevention of Cruelty to Children, he for many years acted as honorary solicitor of the local branch; was secretary of the South Shields Builders' Association and a director of The General Accident, Fire and Life Insurance Corporation. He was an active Freemason, passing through the chair of the St. Hilda Lodge in 1903, and becoming Senior Grand Deacon of the Province a few years later. Mr. Hannay was a member of The Law Society. He leaves a widow, two married daughters, and one son.

High Court—Chancery Division.

In re **Blyth Shipbuilding and Dry Docks Co., Ltd.; Forster** *v.* **Blyth Shipbuilding and Dry Docks Co., Ltd.**

Romer, J. 23rd October. 27th November.

SHIPBUILDING COMPANY—PARTLY CONSTRUCTED VESSEL—AGREEMENT TO BUILD—SALE OF GOODS—APPOINTMENT OF RECEIVER—WHEN PROPERTY PASSES—SALE OF GOODS ACT, 1893, 56 & 57 Vict. c. 71, ss. 16, 18, r. 5 (1).

Where at the date of the appointment of a receiver of a shipbuilding company a certain vessel was in course of construction by the company under an agreement to pay for it by instalments which provided, inter alia, *that the materials should be inspected and passed from time to time by the agent of the purchaser, and also that after payment of the first instalment on account of the purchase price the vessel and all material things appropriated for her, subject to the lien of the builders for lawful purchase money, became the absolute property of the purchasers, and that if default was made in payment of instalments and builders' agent gave notice to rescind, thereupon the vessel should become their sole property, and two instalments were paid before the debenture-holders' action started.*

Held, that the property in the uncompleted vessel had passed to the purchasers, but not the property in any materials passed for inserting in the vessel which had not in fact been so inserted therein.

Sir James Laing & Sons *v.* Barclay Curle & Co., 1908, A.C. 35, *applied.*

This was a summons taken out by the plaintiffs in a debenture-holders action to have it determined whether (1) a partly-constructed vessel, and (2) worked material intended for the vessel and approved by the purchasers' agent, and (3) unworked material intended for the vessel, were respectively the property of the purchaser of the vessel, by instalments, or of the company engaged in constructing her. The facts were as follows: By an agreement dated 24th November, 1924, and made between the defendant company and an Italian shipping company, the defendant company agreed to build and the Italian company agreed to buy a steel motor ship with engines, boiler, machinery, fittings, outfit and appurtenances as specified and shown in the specifications and plans signed by and on behalf of both parties thereto. The contract contained the following clauses: Clause 3—"The vessel shall be built under the inspection of such surveyor as the purchasers shall from time to time appoint, but so that there shall not be more than one surveyor at a time over the hull, and one over the engines, boiler and machinery, and such surveyors shall at all reasonable times during work hours have free access to the vessel during construction. The quality of the material used in the construction of the vessel and the workmanship shall be subject to the approval of the surveyor for classification, and any defective or unsound material or workmanship rejected by him shall be replaced and made good to his satisfaction before the delivery of the vessel to the purchasers, but after the vessel shall have been delivered to the purchasers all responsibility on the part of the builders arising under this agreement, except as provided in the specification, shall cease, whether such responsibility shall have arisen before or after delivery." (Clause 5 provided for the payment of the purchase price by instalments.) Clause 6—"From and after the payment by the purchasers to the builders of the first instalment on account of the purchase price the vessel and all material things appropriated for her shall henceforth subject to the lien of the builder for unpaid purchase money including extras, become and remain the absolute property of the purchasers." Clause 8—"In the event of any instalment of the purchase price remaining unpaid for fourteen days after the same is due the builders shall be entitled to interest thereon at 21 per cent. per annum over the current Bank of England rate and shall be at liberty by notice in writing to be given to the purchasers or sent to them by registered post to rescind this agreement in which case the purchasers shall thereupon cease to have any interest or property in the vessel, and the same shall become and be the sole property of the builders, free from any claim on the part of the purchasers . . . ." The company proceeded with the construction of the vessel, but on 15th May, 1925, an order was made in his action, which was commenced by certain debenture-holders for the purpose of enforcing their security, appointing a receiver and manager of the assets and undertaking of the company, since which date no further work had been done under the agreement. At the date of the appointment of the receiver, however, the vessel had been partly constructed under the inspection and with the approval of the surveyor for the Italian company, and the first two instalments of the purchase price had been duly paid by the Italian company. In addition to the partly completed vessel there had been assembled at the yard of the company, worked material which was ready to be, but had not in fact been incorporated in the hull of the vessel, all of which material had been approved of by the surveyor. There was also lying in the company's yard unworked material intended to be used for the construction of the vessel which however, had not been approved of by the surveyor.

ROMER, J., after stating the facts, said: The contract is unquestionably a contract for the sale of future goods within the meaning of the Sale of Goods Act, 1893 (see *Seath* v. *Moore*, 1886, 11 App. Cas. 350; *Reid* v. *Macbeth and Gray*, 1904, A.C. 223, and *Sir James Laing and Sons Ltd.* v. *Barclay, Curle & Co.*, 1908, A.C. 35). The contract in this last case closely resembles the present contract, and were it not for clauses 6 and 8 of the latter contract, would be practically indistinguishable. It becomes, therefore, necessary to ascertain what is the true construction and effect of these two clauses. Are the clauses which like the clauses 4 and 5 in the contract in *Reid* v. *Macbeth & Gray, supra*, are merely intended by the parties to form a security or are they clauses which indicate the intention of the parties that the property shall pass? In my judgment, according to their true construction, they do indicate an intention that the property in the uncompleted vessel shall pass. That appears to be the natural meaning of the words used, and there is nothing in the earlier part of the agreement to indicate that the words are not intended by the parties to bear their natural meaning. The fact that the ship was to be paid for by instalments and was constructed under the inspection of the purchasers, strongly points to the conclusion that the property in the uncompleted vessel is intended to pass. I said advisedly "the property in the uncompleted vessel" because in my judgment clause 6 does not, according to its true construction, deal with the property in materials not affixed to and so made part of the vessel even though such materials have been inspected by and approved of by the surveyor of the Italian Company. In my judgment the property in the uncompleted vessel has passed to the Italian Company, and the property in the materials not actually built into the vessel has not so passed.

COUNSEL: *Maugham*, K.C., and *Daynes*; *Jenkins*, K.C., *and Rivière.*

SOLICITORS: *Field, Roscoe & Co.* for *Williamson and Marshall*, Newcastle-on-Tyne; *Maples, Teesdale & Co.* for *Bramwell, Clayton & Clayton*, Newcastle-on-Tyne.

[Reported by L. MORGAN MAY, Esq., Barrister-at-Law.]

Mr. Charles King Francis, of Granville-place, Portman-square, W., and of East Molesey Court, Surrey, barrister-at-law, Metropolitan Police Court Magistrate at Westminster Police Court since 1896, who formerly played cricket for Rugby, for Oxford University, and for Middlesex, who died on 28th October, 1925, aged seventy-four, left estate of the gross value of £24,560. Like many other well-known lawyers, he failed to make his own will satisfactorily, and affidavits regarding its execution were required before it could be admitted to probate.

High Court—King's Bench Division

Gold Bros. and Nash Ltd. *v.* Fuller.

Bankes and Atkin, L.JJ., sitting as additional Judges of the King's Bench Division. 3rd November.

County Court—Costs—Taxation—Remitted Action—Scale of Taxation—Duty of County Court Judge to Specify Scale—County Courts Act, 1919, 9 & 10 Geo. 5, c. 73, s. 12—County Court Rules, Ord. LIII, r. 1.

The costs of a remitted action, both before and after transfer, are in the discretion of the county court judge. It is not necessary for that judge to make a special order before the registrar can tax the costs, but inasmuch as the registrar would, in the absence of any direction as to taxation, be compelled, under Ord. LIII, r. 1, to tax in accordance with the scale applicable to the amount recovered, it is wise for the county court judge, under the powers conferred by s. 12 of the County Courts Act, 1919, to name the scale under which taxation is to proceed.

Appeal from the Brighton County Court. The plaintiffs sued under Ord. XIV for £175 5s. 11d. as being due upon a bill of exchange, which had been dishonoured upon presentation, and for goods sold and delivered. The defendant admitted liability as to £79 8s. 10d. and paid that sum into court. He was given leave to defend the action for the balance, which action was remitted to the Brighton County Court, where the plaintiffs recovered £9 7s. 7d. The county court judge entered judgment for the plaintiffs for that sum and for the £79 8s. 10d. already paid into court, and allowed the plaintiffs' High Court costs up to the date of the transfer of the action from the High Court and County Court costs subsequent to the date of the transfer, but he gave no specific directions as to the scale upon which the County Court costs were to be taxed On taxation, the registrar held that, in the absence of specific directions as to the scale on which the County Court costs were to be taxed, he was bound by Ord. LIII, r. 1, and the heading to the higher scale, to tax those costs on the basis of the amount recovered, and that that amount was to be ascertained by adding together the two sums recovered by the plaintiff, namely, the £79 8s. 10d. and £9 7s. 7d. The defendant appealed to the County Court Judge against that taxation and contended that the plaintiffs were not entitled to any of the costs of the proceedings in the County Court, or, alternatively, only such costs as were allowable under the lower scale on the amount in dispute, because there had been no specific directions by the County Court Judge, in the exercise of his discretion, that such costs were to be taxed under any particular column or on any particular scale under s. 12 of the County Courts Act, 1919. The County Court Judge held that the objection failed, and said that his judgment meant, and was intended to mean, that the County Court costs were to be ascertained in the usual manner, i.e., according to the scale applicable to the amount recovered, namely, £88 16s. 5d. The defendant appealed.

Bankes, L.J.: The appeal raises a somewhat important point of practice. This Court is asked to say that the County Court Judge did not give an effective judgment because he did not specify the scale upon which the County Court costs were to be taxed, and to say that in the absence of such direction the registrar had no jurisdiction to tax at all. He (the Lord Justice) could not agree with these conclusions. The County Court Judge has stated that, although he did not indicate in his judgment the particular scale upon which the registrar should tax the costs, he expressed himself in general terms. He intended, and the registrar so understood, that the costs were to be taxed upon Scale C. No one can say that it is necessary for a County Court Judge to make a special order to enable a registrar to tax. But the matter did not rest there, for, under s. 65 of the County Courts Act, 1888, the costs would have been taxed on the scale applicable to the amount recovered. That might work an injustice. For example, in the present case the defendant admitted liability as to £79 8s. 10d. of the plaintiffs' claim, and, in the remitted action for the balance, the plaintiffs recovered only £9 7s. 7d. It might be unjust to the defendant to have to pay costs in the County Court on that £9 7s. 7d. on the same scale as would be applicable to the total amount recovered, namely £88 16s. 5d. That section was repealed by the County Courts Act, 1919, s. 12 of which was introduced to remove any such injustice which might arise. That section provides that a County Court Judge may make orders "as to the scales or columns on or under which the costs of the several parts of the proceedings are to be taxed." The County Court Judge has a discretion over the costs of the whole action before and after transfer, and he can allow costs upon one scale in regard to one part of the proceedings and upon another scale in regard to another part of the proceedings. But in the entire absence of any direction by the County Court Judge as to the scale to be applied the registrar would, apparently, under Ord. LIII, r. 1, be compelled to tax in accordance with the scale applicable to the amount recovered. The county court judge in the present case has said he intended, and the registrar so understood, that the costs should be taxed on Scale C. It would be wise, however, for County Court Judges to indicate the scale upon which the costs are to be taxed. The appeal will be dismissed.

Atkin, L.J., concurred. Appeal dismissed.

Counsel: *R. F. Levy*, for the appellant; *D. H. J. Hartley*, for the respondents.

Solicitors: *F. H. Carpenter*, Brighton; *Robert Greening and Co.*

[Reported by Colin Clayton, Esq., Barrister-at-Law.]

Buckle *v.* Holmes.

Shearman and Sankey, JJ. 4th December.

Animals—*Domitæ Naturæ*—Cat—Cat taking Pigeons—Liability of Owner of Cat—Proof of *Scienter* necessary.

The plaintiff, who kept pigeons and poultry, discovered that a cat belonging to the defendant had taken and killed some of these pigeons. The defendant thereupon had the cat destroyed but refused to compensate the plaintiff who brought an action for damages in the county court. The action was dismissed.

Held, on appeal, that, as a cat is an animal domitæ naturæ, *it is necessary to prove* scienter *before its owner can be held liable for an unprovoked trespass, and that as the appellant had not done this the respondent was not liable.*

Appeal from the Leeds County Court. The appellant, George Arthur Buckle, of Lower Wortley-road, Leeds, sued the respondent, W. Holmes, for £8 as damages for the loss of eight pigeons and two bantams. The appellant, who was a member of the Leeds Flying Club and of the National Homing Union, kept homing and racing pigeons in a cote in his garden. He also kept bantams and other poultry. He lost a number of pigeons from the loft and began to suspect that a cat was responsible. Later he saw a cat in the garden with a pigeon in its mouth, and though he failed to catch the cat, he subsequently discovered that it belonged to the respondent. As soon as the respondent was satisfied that his cat was responsible for taking the appellant's pigeons he destroyed it, after which no more pigeons were lost. The respondent, however, refused to pay compensation, and the appellant brought an action in the Leeds County Court. There was no dispute that this cat was responsible for the damage or that the respondent was its owner. The county court judge, however, dismissed the action on the following grounds: (*a*) That as the roaming character of cats was a recognized habit, and the custom was to allow them to roam about freely, the responsibility in law was on the owner of pigeons to keep them out of the way of cats, and not on the owner of a cat to prevent that cat from attacking pigeons; (*b*) that in the case of a cat's

attacking pigeons it was necessary to prove *scienter* before the responsibility in law could be laid on the owner of the cat. The plaintiff appealed.

SHEARMAN, J.: The appeal must be dismissed. It was held by the county court judge that this cat had no more than the ordinary character of a common cat, and he dismissed the action on the ground that *scienter* had to be proved and that it had not been proved. That judgment was right. Under the old principles of English law animals were divided into two classes, animals *domitæ naturæ* or *mansuetæ naturæ* and animals *feræ naturæ*. In the former class were included cattle, horses, sheep, pigs, poultry, dogs and cats and other animals accustomed to live in association with mankind. Apart from particular statutes, the owner of a domestic animal was not responsible for any damage done by it unless he was aware that the animal had acquired a character different from the generality of animals of that species. It was now well-settled law that the owner of a dog, apart from *scienter*, was not responsible for any unprovoked trespass it committed. The owner could not, of course, stand outside his neighbour's close and send the dog in to poach. That act would be his and not the dog's. It had been argued that the law applicable was different in the case of cats. There was no authority on the point, but in his (his Lordship's) opinion such a distinction could not be drawn. Dogs and cats were animals which their owners were not expected to chain up, and a cat was able and willing to trespass over a neighbour's roofs, trees and gardens even more than a dog. It had been said that, as regards birds, cats should be treated as falling in the second class of animals, i.e., animals *feræ naturæ*. To do so would be to make a third class, which class was unknown to the law. It was impossible at this date to introduce that distinction. A cat was obviously a tame animal, and unless there was evidence or knowledge of acquired vice the owner was not responsible.

SANKEY, J., delivered a concurring judgment. Appeal dismissed.

COUNSEL: for the appellant, *Harold Sutcliffe* and *G. Russell Vick*; the respondent was not represented and did not appear.

SOLICITORS: for the appellant, *Hamlins, Grammer and Hamlin*, for *Harland & Plackett*, Leeds.

[Reported by COLIN CLAYTON, Esq., Barrister-at-Law.]

Correspondence.

Conveyance by Tenant for Life—Payment of Purchase Money.

Sir,—It is admitted that where before the 1st January, 1926, land has been conveyed by a tenant for life, subject to family charges, but with the benefit of an indemnity in respect thereof, the land in the hands of the purchaser becomes on the 1st January, 1926, settled land within the meaning of s. 1 (v) of the Settled Land Act, 1925, and that such land can only be dealt with by the purchaser after a vesting deed has been executed in his favour by the trustees of the settlement under which he purchased. Such trustees appear to be the trustees of a compound settlement by virtue of s. 31 of the Settled Land Act, 1925, and will be the persons to receive the purchase money, and will have to hold it subject to the provisions of the compound settlement of which they are trustees. The purchase money cannot therefore be paid to the purchaser of the land.

The position created is a very serious one. Clients of ours are developing an estate upon which charges of this kind exist, and the development is carried out by means of advances by a bank upon mortgage of the land. Contracts for sale are entered into, and the owner naturally expects purchase moneys to be received and paid to the bank in reduction of the mortgage. Sales are, however, now held up because solicitors acting for purchasers refuse to accept the vendor's title as it now stands.

We observe that, in answer to a question by Mr. H. G. Redman, reported on p. 198 of your issue of the 12th ult., Sir Benjamin Cherry suggests that the owner could either—

(*a*) Prove that the family charges have ceased;

(*b*) Arrange to obtain releases of the charges; or

(*c*) Arrange for the trustees to receive the purchase money and pay it to the owner on an indemnity.

In the present case (*a*) and (*b*) are impracticable. With regard to (*c*), apart from the expense involved, it does not appear to us likely that trustees would take the responsibility of receiving large purchase moneys, and of paying them over to the owner of the land on an indemnity. The practical result is therefore that after the 1st January all sales of property on this particular estate will have to be held up, and the owner will be in the very serious position of having large blocks of property which he is unable to sell, he, in the meantime, having to pay the bank interest on advances made to him.

Mr. Topham, in his ninth lecture, suggests that before many purchasers of such property want to sell again, there may be some amending legislation, but he has apparently overlooked the fact that large blocks of land held in the manner indicated are in course of rapid development and sales are daily taking place. If the owners who are in this unfortunate position are to be saved heavy losses, amending legislation is necessary with the least possible delay.

CARTWRIGHT, CUNNINGHAM & CO.

[The question raised by our correspondents is a really important one. As regards a purchaser of land subject to family charges, where the purchase was completed before 1926, the position is perfectly clear. The purchaser has the legal estate in fee simple vested in him, but only as tenant for life under the Settled Land Act. See L.P.A., 1925, 1st Sched., Pt. II, para. 6 (*c*). He cannot, however, dispose of the legal estate until the provisions as to a vesting deed, &c., have been complied with. If those formalities are complied with he is in a much better position as a vendor than he would have been under the old law for as tenant for life under the Settled Land Act, 1925, he can sell clear of the family charges. Further he is not really in a much worse position than he was before 1926, even if he does not take any steps as to a vesting deed, &c. He will still be able to dispose of the same *quantum* of interest of which he could have disposed before the new Acts, but, of course, subject to the limitation that such interest will now be equitable and not legal. It should be remembered, however, that equitable interests receive special protection under the new Acts. The point raised in the second paragraph of the above letter is a more difficult one. It brings up the question of the effect of the "purchaser's charter," section 42 of the Law of Property Act, 1925, upon existing contracts for sale. Section 42 (4) (ii) provides that "if the subject matter of any contract for the sale of land is an equitable interest capable of subsisting as a legal estate and the vendor has power to vest such legal estate in himself or in the purchaser or to require the same to be so vested, the contract shall be deemed to extend to such legal estate." Is the interest contracted (before 1926) to be sold within this provision? In other words, does land subject to a family charge constitute "an equitable interest capable of subsisting as a legal estate?" If it does not, and we are reluctantly inclined to this view (subject, however, to any decision which the court may very soon have to give upon this point) then those who have contracted to buy land from the owners of this and other similar estates will have to accept an equitable fee simple subject to a family charge. The difficulty that we find in accepting this view is that a system of public conveyancing based upon transfer of equitable interests such as would take place in such a case as this would be contrary to the spirit if not to the letter of the new legislation. If the court adopt the other view it may not help towards a solution but it will certainly not be inappropriate to point out here that the matter being urgent in the present instance heed might profitably have been paid to the repeated warnings made for the past few months to see that the necessary vesting deeds, etc., were duly prepared.—ED. S.J.]

The Probate Division.

DIRECTIONS given by the President, to the Officers of the Probate Division, for regulating the Practice on and after 1st January, 1926, under the Administration of Justice Act, 1925, the Administration of Estates Act, 1925, and the Judicature (Consolidation) Act, 1925.

Jurisdiction of District Probate Registrars. Judicature (Consolidation) Act, 1925. *Secs.* 151 (1), 158 *and sch.* 5.

On such day, not before the 1st day of January, 1926, as may be prescribed by the President, the provisions of section 151 (1) of the Judicature (Consolidation) Act come into effect, abolishing the territorial limits of District Probate Registries. On and after such date all country notices must be searched as heretofore and, in addition, search must be made of the Country Notices Book; such search need not be extended further back than the appointed day.

Notices of caveats entered on or after the prescribed date need not be sent to District Registries, nor the fee charged.

Trust Corporations. Judicature Act, 1925. *Sec.* 161 (2).

On and after 1st January, 1926, no grant of Administration or of Administration with Will annexed can be made to a syndic or nominee of a *trust* corporation; a foreign trust corporation can however appoint an attorney, and an English trust corporation can apply as attorney.

Probate limited to settled land. Judicature Act, 1925. *Sec.* 162. *Administration of Estates Act*, 1925. *Sec.* 22.

On application by trustees of settled land deemed as such to be executors in that respect, provided that the Will in question shall have been proved and shall be sufficiently identified in such application, no engrossment of the Will need be annexed to the grant to such trustees, nor need the executors be sworn to the Will. If the Will has not been proved it must be marked and engrossed.

On application, otherwise than by trustees of settled land, for a grant of the whole estate, the names of the trustees of the settlement must be stated in the oath.

Special Administrators. Judicature Act, 1925. *Sec.* 162 (*substitute for 73rd sec. C.P.A.*, 1857).

In cases of death on or after 1st January, 1926, application under section 162 will be made by motion to the Court except when the gross estate does not exceed £500, in which case application may be made *ex parte* to a Registrar of the Principal Registry, who may make an order or refer the matter to the Court on motion.

The provisions of Rule 31 shall apply, *mutatis mutandis*; a declaration shall be filed, and the sureties justify.

Life Interest. Administration of Estates Act, 1925. *Sec.* 48 (2).

When it is alleged by an applicant for a grant to a single grantee that a life interest has been cleared off by redemption the Registrar must be satisfied before making such grant that the whole life interest of the person in question, whether at present ascertainable or not, has been redeemed.

Failing this the grant must be made to two persons, whatever the amount of the estate.

Administration pendente lite. *Judicature Act*, 1925. *Sec.* 163.

When an order on motion for appointment of an administrator *pendente lite* of the estate is drawn in respect of a person who died on or after 1st January, 1926, it will provide for an administration of the real and personal estate unless the judge shall otherwise direct.

Two grantees. Judicature Act, 1925. *Sec.* 160.

Where a grant must be made to two persons it is immaterial that they represent the interest of a single individual, whether as guardians, attorneys, or otherwise.

A grant to a trust corporation, made by reason of a minority or life interest, will be limited "until further representation be granted."

Administration to four grantees. Judicature Act. 1925. *Sec.* 160 (1).

Grants of Administration, with or without the Will, may be made to any number of persons not exceeding four.

Minor executors. Judicature Act, 1925. *Sec.* 165.

Except in cases where there are beneficiaries who are minors or infants or where life interests are created by the Will, the fact that an executor is an infant does not of itself necessitate a grant to two persons. The grant will, in either case, be *durante minore aetate.*

Minority or life interest. Colonial Probates Act, 1892.

In applications under the Colonial Probates Act, unless it is shown by the grant or by affidavit that the deceased died domiciled in the colony, the provisions of section 160 of the Judicature Act, 1925, must be observed if there is (*a*) a minority, or (*b*) a life interest under English law.

Election and Assignment of guardians.

The existing practice as to the election, appointment, or assignment of guardians shall continue. Where, for the purpose of a grant, a second guardian is required, the minor may elect any other of his kin, or the guardian duly constituted may nominate as his co-administrator some other person whose fitness he shall show by a filed statement, unless in either case, a Registrar of the Principal Registry shall otherwise direct. The same principles shall apply to the assignment of guardians. A trust corporation nominated by the guardian duly elected or assigned may join in the application for a grant; such nomination must be signed by the guardian in the presence of a witness; it will be filed with the papers to lead the grant.

Lunatics. Law of Property Act, 1925. *Sec.* 171. *Death on or after 1st January*, 1926.

Under the Administration of Estates Act, 1925, section 51 (2) where a person, being on 1st January, 1926, a lunatic and of full age, dies intestate without having recovered his testamentary capacity, his real estate (other than chattels real) devolves on his heir at law, as if he had died before 1926; his personal estate, subject to any settlement by the Court under the Law of Property Act, 1925, section 171, devolves in accordance with the provisions of the Administration of Estates Act, 1925, section 46.

In making a grant in respect of the estate of such a person, the rights and interests of the heir-at-law shall be regarded equally with those of the person or persons entitled under the Administration of Estates Act, 1925, section 46.

Bond Non-Contentious Rule 39.

In calculating the amount of the bond in respect of real estate, double the capital value must be taken.

Direction dated February, 1898, as to the gross annual value is cancelled.

Sureties, Judicature Act, 1925. *Sec.* 167.

The Principal Probate Registrar has directed that where the gross estate is under £50 one surety may be accepted unless a Registrar shall otherwise direct.

A husband is no longer to be excused, as such, from furnishing two sureties, where the death occurred on or after 1st January, 1926.

See also N.C. Probate Rules 39 and 111.

Irish resealings. Certificate of bond. Judicature Act, 1925. *Sec.* 169 (1).

No bond or certificate of security need be given when application is made to reseal a grant made in Northern Ireland in respect of a person dying on or after the 1st April, 1923.

Title to grant.

The description in oath and grant shall be:—

A husband ..	"the lawful husband."
A wife	"the lawful widow and relict."
Issue of marriage	"the lawful son (or daughter), and only person entitled to the estate," or "the lawful son (or daughter), and one of the persons entitled to share in the estate," or "the lawful grandson (or granddaughter) and only person entitled to the estate," or "the lawful grandson (or granddaughter) and one of the persons entitled to share in the estate."
A father .. .. or A mother ..	"the lawful father (or mother), and only person entitled to the estate" or "the lawful father (or mother), and one of the persons entitled to share in the estate."
A brother .. or A sister	"the lawful brother (or sister) of the whole blood, and only person entitled to the estate" or "the lawful brother (or sister) of the whole blood, and one of the persons entitled to share in the estate."

If there be no brother or sister of the whole blood, nor any issue of such brother or sister, then the half blood is described as "the lawful brother (or sister) of the half blood, and *etc.*"

Issue of a brother or sister ..	"the lawful nephew or great nephew (or niece) of the whole blood, and only person entitled to the estate" or "the lawful nephew or great nephew (or niece) of the whole blood, and one of the persons entitled to share in the estate."
	If there be no brother or sister of the whole blood, nor any issue of such brother or sister, then the half blood is described as "the lawful nephew or great nephew (or niece) of the half blood, and *etc.*"
A grandparent ..	"the lawful grandfather (or grandmother) and only person entitled to the estate" or "the lawful grandfather (or grandmother), and one of the persons entitled to share in the estate."
An uncle	"the lawful uncle (or aunt) of the whole blood, and only person entitled to the estate" or
An aunt	"the lawful uncle (or aunt) of the whole blood, and one of the persons entitled to share in the estate."
	If there be no uncle or aunt (being brother or sister of a parent of the whole blood), nor any issue of such uncle or aunt, then such person shall be described as "the lawful uncle (or aunt) of the half blood, and *etc.*"
Issue of an uncle or aunt ..	"the lawful cousin german of the whole blood, and only person entitled to the estate" or "the lawful cousin german of the whole blood, and one of the persons entitled to share in the estate."
	If there be no uncle or aunt (being brother or sister of a parent of the whole blood), nor any issue of such uncle or aunt, then such person shall be described as "the lawful cousin german of the half blood, and *etc.*"

Presumption of death.

Applications for leave to swear to the death of a person presumed to be deceased may be made to a Registrar of the Principal Registry if the gross estate does not exceed £250.

Notation of domicil.

On and after 1st January, 1926, a District Probate Registrar may, upon the usual affidavit evidence, make orders for the notation of grants as to domicil.

Attention is called to the following amendments of, and additions to, the Non-Contentious Probate Rules:—Principal Registry Rules Nos. 30, 37, 39, 50, 62, 66, 76, and 111 to 122, and

District Registry Rules Nos. 36, 43, 46, 61, 72, 74, 75, 76, 89, and 104 to 115

and to the rescission of Rule 61 P.R. and, under Rule 75 (A) D.R., to the repeal of section 49 of the Court of Probate Act, 1857, so far as the immediate forwarding of notices is concerned. Directions dated 2nd August, 1859, and April, 1908, on this subject are cancelled.

Attention is also drawn to the following:—

Life interest.

(1) A residuary legatee or devisee for life, or a legatee or devisee for life, can no longer take a grant alone.

(2) Notwithstanding the provisions of section 47 of the Administration of Estates Act, 1925, no reference need be made, where a grant is made on behalf of a minor, to the fact that he has not attained an absolutely vested interest.

The following sections should be noted:—

Marriage. Law of Property Act, 1925. *Sec.* 177 (1).

A will expressed to be made in contemplation of a marriage shall, notwithstanding anything in section eighteen of the Wills Act, 1837, or any other statutory provision or rule of law to the contrary, not be revoked by the solemnisation of the marriage contemplated.

Survivorship. Sec. 184.

In all cases where, after the commencement of this Act, two or more persons have died in circumstances rendering it uncertain which of them survived the other or others, such deaths shall (subject to any order of the court), for all purposes affecting the title to property, be presumed to have occurred in order of seniority, and accordingly the younger shall be deemed to have survived the elder.

Rules and Orders.

THE LOCAL LAND CHARGES RULES, 1925.
DATED NOVEMBER 19th, 1925.

Continued from p. 271.

8. *Reduction and Cancellation of Charges.*]—(1) Where a general charge has been registered, the registration shall be cancelled within one year after the charge is ascertained and allotted.

(2) Where any other local land charge has been discharged or become unenforceable the registration shall be cancelled.

(3) Where any portion of a local land charge entered in Part II of the register has been discharged by the payment of an instalment or otherwise, the amount paid off, the date of payment and the balance of the original charge outstanding shall be entered in the register against the charge.

(4) Where the local authority in whose favour the charge has been created or by which it is enforceable is not the same as the registering authority, the first mentioned authority shall give to the clerk to the other authority the requisite notice to enable the charge to be cancelled or the entry of a reduction of the charge to be made.

9. *Use of Existing Registers.*[—Where a charge has been registered in any existing register, or other record of the local authority, containing the particulars required by these Rules, and open to inspection, it shall be a sufficient compliance with these Rules if a reference to the register, or other record so kept, sufficient to enable the relevant entry therein to be traced, is recorded against the land affected by the charge in the register kept under these Rules.

10. *Searches and Official Certificates of Search.*]—(1) The provisions of sub-sections (1), (2), (3), (7), (8) and (9) of section seventeen of the Act (which relate to official certificates of search and to the effect of such certificates) shall apply to the registrars and registries of local land charges.

(2) Every requisition for search made under those provisions as applied by this Rule shall be in writing signed by the person making the same or by the solicitor acting for the person requiring the search to be made and defining the land in respect of which the search is to be made by means of a plan drawn to scale or in other manner sufficient to enable the land to be identified.

(3) Requisitions for search and official certificates of search shall be in the form set out in the First Schedule hereto, or in such other form as the Minister may from time to time determine.

11. *Sale of Forms.*]—(1) All forms of requisitions for search and official certificates of search shall be sold under arrangements to be made by H. M. Stationery Office, or otherwise as the Minister may from time to time approve.

(2) No forms other than those so supplied shall be accepted for the purpose.

12. *Fees.*]—The fees payable for the registration, modification, or cancellation of entries and for searches and official certificates of search shall be those specified in the Order set out in the Second Schedule hereto.

13. *Interpretation.*]—(1) In these Rules "the Minister" means the Minister of Health.

(2) *Short Title.*—These Rules may be cited as the Local Land Charges Rules, 1925.

(3) *Commencement.*—These Rules shall come into operation on the first day of January, 1926.

First Schedule.

REQUISITION FOR AN OFFICIAL SEARCH.

Form L.L.C.1. Official Number

Name of Local Authority

A search in *Part* of the Register of Local Land Charges of the above-named Authority is required for subsisting entries against the land defined in the enclosed plan.

Description of land sufficient to enable it to be identified.

A separate form must be used for each separate parcel of land in respect of which search is required.

Signature of Applicant
(or of his Solicitor)
Address

Date

OFFICIAL CERTIFICATE OF SEARCH.

The search in *Part* of the Register of Local Land Charges of the above-named Authority against the land specified in *the plan accompanying* the above requisition

reveals to date { no subsisting entries. / the subsisting entries set out in the Schedule attached hereto.

Date Signature of Local Registrar

Note.—The duplicate of this form must also be filled up.

Form L.L.C.1 (A).

SCHEDULE TO OFFICIAL CERTIFICATE OF SEARCH.

Official Number

Name of Local Authority

Signature of Local Registrar

PART I.—REGISTER OF GENERAL FINANCIAL CHARGES.

Nature of charge, and reference to statute and (where, in the opinion of the local registrar expedient) section, order, scheme, or instrument under which proposed to be made. 1.	Where charge registered on behalf of another local authority, name of the authority. 2.	Date of registration. 3.

PART II.—REGISTER OF SPECIFIC FINANCIAL CHARGES.

Nature of charge, and reference to statute, and (where in the opinion of the local registrar expedient) section, order, scheme or instrument under which made. 1.	Where charge registered on behalf of another local authority, name of the authority. 2.	Date of charge. 3.	Date of registration of charge. 4.	Amount of charge, or, where interest is payable, the amount of the original charge and the rate of interest thereon. 5.	Date of last payment. 6.	Balance of original charge outstanding at date of last payment. 7.	Name, address and description of estate owner (where ascertained). 8.

PART III.—REGISTER OF TOWN PLANNING PROHIBITIONS OR RESTRICTIONS.

(*a*) Town Planning Schemes in course of preparation

Particulars of any entry in the register of any resolution to prepare or adopt a town planning scheme affecting the land in respect of which the search is made, and approval or authority of the Minister of Health, if any. 1.	Particulars of any entry in the register of any special or general order of the Minister of Health in force under section 4 of the Town Planning Act, 1925, or any statute amending that section, affecting the land in respect of which the search is made. 2.	Place at which any map or any statement or draft of any proposed provisions of the scheme referred to in the resolution, approval, authority or order (or a certified copy of such portion of the same as relates to the district of the authority in whose register search is requested) may be inspected. 3.

(*b*) Town Planning Schemes in operation.

Particulars of any entry in the register of any town planning scheme affecting the land in respect of which the search is made. 1.	Place at which any map referred to in the scheme (or a certified copy of the portion of the map relating to the district of the authority in whose register search is requested) and any orders, consents, approvals or agreements made, given, or entered into under or by virtue of the scheme by the responsible authority under the scheme (and relating to the said district) may be inspected. 2.

PART IV.—REGISTER OF OTHER PROHIBITIONS OR RESTRICTIONS.

Nature of prohibition or restriction and reference to statute, order, scheme or instrument under which enforceable, sufficient to show the effect of the prohibition or restriction and to enable the provision under which the prohibition or restriction is imposed to be identified. 1.	Where prohibiton or restriction registered on behalf of another local authority, name of the authority. 2.	Place at which any document referred to in Column 1, other than a public general statute, may be inspected. 3.

Second Schedule.

LAND CHARGES ACT, 1925.

LOCAL LAND CHARGES.

Fee Order.

Fees shall be paid under the Act :—	£.	d.
1. Registration, where application is made by one local authority to the clerk of another :—		
(i) in Parts I, III and IV of the register, per entry	20	0
(ii) in Part II of the register, per entry ..	1	0
2. Modification of entry (including any substitution of one order for another or any entry of an additional order in pursuance of paragraph (2) of Rule 5), or cancellation of entry, where application is made by one local authority to the clerk of another	1	0
3. Entry of reduction of a charge, where application is made by one local authority to the clerk of another	1	0
4. Personal Search	2	0
and in addition in respect of each entry duly recorded against the land in respect of which the search is made	1	0
5. Official Search (including issue of certificate) ..	5	0
and in addition in respect of each entry duly recorded against the land in respect of which the search is made	2	0
6. Office Copy of any entry in the register (not including a copy or extract of any plan or document filed in the registry)	2	0
7. Office Copy of any plan or other document filed in the registry, such reasonable fee as may be fixed by the local registrar according to the time and labour involved		
All fees shall be prepaid.		

Dated the 19th day of November, 1925.

Cave, C.

THE LAND REGISTRATION FEE ORDER, 1925, DATED NOVEMBER 3, 1925, MADE IN PURSUANCE OF SECTION 145 OF THE LAND REGISTRATION ACT, 1925 (15 & 16 GEO. 5. C. 21).

I, George Viscount Cave, Lord High Chancellor of Great Britain, with the advice and assistance of the Rule Committee appointed in pursuance of Section 144 of the Land Registration Act, 1925, and with the concurrence of the Treasury, do hereby, in exercise of the powers conferred upon me by Section 145 of that Act and all other powers enabling me in this behalf, order as follows :—

Subject to the Fee Order Rules hereinafter contained, the following fees shall be charged for the several matters hereunder specified.

(A) Entry of first proprietorship of land (except as in paragraph D):—

Value of Land.	Fee.
Not exceeding £100	12*s.*
Exceeding £100, but not exceeding £325.	£1.
Exceeding £325, but not exceeding £1,000.	1*s.* 6*d.* for every £25, or part of £25.
Exceeding £1,000, but not exceeding £3,000.	£3 for the first £1,000, and 1*s.* for every £25, or part of £25 over £1,000.
Exceeding £3,000, but not exceeding £10,000.	£7 for the first £3,000, and 1*s.* for every £50 or part of £50 over £3,000.
Exceeding £10,000, but not exceeding £100,000.	£14 for the first £10,000 and 1*s.* for every £100 or part of £100 over £10,000.
Exceeding £100,000	As for £100,000.

(B) (i) Registration of—

(*a*) charges, except charges by way of additional or substituted security where the original security is or was a registered charge,

(*b*) transfers of land, except as in paragraph D and not being by way of partition or exchange,

made for valuable consideration other than marriage.

(*c*) mortgage cautions,

(ii) Entries and corrections in the Register by the Registrar under Section 82 of the Act and under Rules 13, 14 and 131, provided that if such fee seems to the Registrar to be excessive in view of the work involved, or otherwise, he may make such reduction therein or remit the fee altogether, as may seem to him reasonable.

(iii) Closing of a title or cancellation of a notice of lease on merger, surrender, or otherwise where the title thereto has to be examined.

(iv) Removal of land from the Register.

Value of Land or Amount of Charge or Mortgage.	Fee.
Not exceeding £5,000 ..	1*s.* 6*d.* for every £25 or part of £25.
Exceeding £5,000 but not exceeding £10,000.	£15 for the first £5,000 and 1*s.* for every £25 or part of £25 over £5,000.
Exceeding £10,000, but not exceeding £50,000.	£25 for the first £10,000 and 2*s.* for every £100 or part of £100 over £10,000.
Exceeding £50,000, but not exceeding £100,000.	£65 for the first £50,000 and 10*s.* for every £1,000 or part of £1,000 over £50,000.
Exceeding £100,000	As for £100,000.

(C) (i) Registration of—

(*a*) transmissions, and transfers of charges,

(*b*) transfers and charges not falling within paragraphs B and D,

(ii) Rectification of the Register under an Order of the Court.

(iii) Entries and corrections in the Register under Rule 137.

1*s.* per £100, or part of £100, of the capital value of the interest dealt with; with a maximum of £2.

(D) (i) Entry of first proprietorship of leasehold land, where the original lessee or his personal representative is the applicant and

(ii) Entry of first proprietorship of freehold land on the occasion of a grant wholly or partly in consideration of a rent, and

(iii) Registration of a transfer of freehold land on a like occasion:—

(1) (*a*) In all cases except mining leases and leases at rack rent:—

Amount of Annual Rent.	Fee.
Not exceeding £5	10*s.*
Exceeding £5 and not exceeding £50.	10*s.* for the first £5 and 2*s.* for every £5 or part of £5 over £5.
Exceeding £50 and not exceeding £150.	£1 8*s.* for the first £50 and 1*s.* for every £5 or part of £5 over £50.
Exceeding £150	£2 8*s.* for the first £150 and 6*d.* for every £5 or part of £5 over £150.

(*b*) Leases at rack rent:—

Amount of Annual Rent.	Fee.
Not exceeding £100	3*s.* for every £20 or part of £20, but not less in any case than 10*s.*
Exceeding £100 and not exceeding £500	15*s.* for the first £100 and 1*s.* for every £20 or part of £20 over £100.
Exceeding £500	£1 15*s.* for the first £500 and 1*s.* for every £50 or part of £50 over £500.

(*c*) Where the lease, grant, or transfer is partly in consideration of a money payment or premium, and partly of a rent, then, in addition to the fee in respect of the rent, there shall be paid a further sum equal to the fee which would be payable on the first registration or transfer, as the case may be, if the value of the land were equal to such money payment or premium.

(*d*) Where a varying rent is payable, the amount of annual rent means the largest amount of annual rent payable.

(2) Mining leases:—five pounds.

(E) Entry of a notice, under Section 48 of the Act, of a lease or sub-lease by way of security for money:—

(*a*) Where a charge for the money secured by the lease or sub-lease has already been registered, or is delivered together with the notice:—

(i) If the amount secured does not exceed £1,000 one shilling for every £100 or part of £100 of the amount secured.

(ii) If the amount secured exceeds £1,000, ten shillings.

(*b*) In other cases:—

The same fee as for the registration of a charge for the amount secured by the lease or sub-lease.

(F) Conversion of a possessory title into a qualified good leasehold or absolute title: or of a qualified title into a good leasehold or absolute title: or of a good leasehold into an absolute title, except in cases coming under Section 4, Proviso (iii) of the Act, and in cases where the application for conversion is made at the same time as the payment of the fee prescribed in paragraph B (i) (*b*) for a transfer for value of land, in which cases no fee shall be charged:—

The same fee as prescribed in paragraph A for entry of first proprietorship of land, subject to such abatement (if any) as the Registrar shall deem reasonable, in any case in which the full fee appears to him excessive, having regard to the amount of time and labour involved.

In cases coming under the 14th paragraph of the First Schedule to the Land Registry (Middlesex Deeds) Act, 1891),(*a*) the amount of any fee paid on registration with possessory title shall be allowed for.

(G) Registration of proprietorship of an incumbrance prior to registration, except where registered on the entry of first proprietorship of land with absolute title, good leasehold title, or qualified title; and of a transfer or transmission of such incumbrance:—

The same fee as for registration of a charge, or of a transfer or transmission thereof respectively.

(H) A Land Certificate or Charge Certificate, except on first registration or on any other occasion when required by the Act or Rules to be issued free of charge:—

	£	*s.*	*d.*
Where the value of the land or amount of the charge does not exceed £1,000	0	10	0
Where it exceeds £1,000	1	0	0

and in either case such further fee as the Registrar shall prescribe for copies of plans and of documents referred to on the Register (if any).

(I) Comparing and (where necessary) altering a Land or Charge Certificate to correspond with the Register:—

No fee except where copies of documents or plans filed in the Registry have to be made or altered, when such fee shall be payable as the Registrar may prescribe.

(J)

	£	*s.*	*d.*
(1) Order extending period for registration under Section 123 of the Act	1	0	0
(2) Certificate under Section 39 (2) or 89 of the Act	1	0	0
(3) Registering an inhibition	1	0	0
(4) Alteration or withdrawal of an inhibition ..	0	10	0

(*a*) 54-5 V. c. 64.

	£	s.	d.
(5) Registering a restriction or priority notice or caution other than a mortgage or priority caution	0	10	0
(6) Alteration or withdrawal of a restriction or caution other than a mortgage or priority caution	0	5	0
(7) Annexing conditions to land	0	5	0
(8) Discharging or altering conditions	0	5	0
(9) Entering a note or notice under Section 70 of the Act	0	5	0
(10) An entry negativing or altering implied covenants, powers or priorities	0	5	0
(11) Entering notice of a lease or sub-lease (not being a lease or sub-lease by way of security for money) or a notice under Section 49 of the Act	0	5	0
(12) Any entry or cancellation on the Register for which the Registrar considers a fee should be chargeable and for which no other fee is prescribed	0	5	0
(13) Entering an additional address for service	0	2	6
(14) Entering notice of deposit or intended deposit of a Certificate	0	1	0
(K)			
(1) Preparing or settling a statement for the Court	0	10	0
(2) Production of documents in Court	1	0	0
(3) Comparing abstracts with deeds by officers of the Registry—per hour	0	10	0
(4) Comparing copies of abstracts of a Land Certificate with the Register	0	10	0
(5) Perusing draft document submitted to the Registrar for approval	0	5	0
(6) Certificate of result of official search :—			
(*a*) of the Register—per title	0	5	0
(*b*) of the index of proprietors' names—per name	0	5	0
(*c*) of the index map	0	5	0
and if the land in respect of which the search is made exceeds an acre	Such further fee, according to the time and labour employed as the Registrar shall prescribe.		
(7) Furnishing information under Rule 289	0	5	0
(8) A Summons	0	5	0
(9) Inspection of any document not referred to on the Register	0	5	0
(10) Taking an affidavit or declaration	0	2	0
(11) Each exhibit thereto	0	1	6
(12) Office copies 6*d.* per folio, with a minimum fee of	0	3	0
(13) Copies of plans	Such charges, according to time and labour employed, as the Registrar shall prescribe.		

(L) Entry of Priority Cautions.

The same fees as shall from time to time be prescribed under Section 138 (11) of the Law of Property Act, 1925,(*a*) for entry of notices, for personal searches, and for a written answer to an enquiry, in cases where the Public Trustee acts as a Trust Corporation.

FEE ORDER RULES.

1. Where the amount of a fee is immediately ascertainable, it shall be paid on the delivery of the application.

2. Where the amount of a fee is not immediately ascertainable, or where expenses for advertisements or otherwise will be incurred by the Registry, such deposit on account shall be made as the Registrar shall require.

3. (1) All fees shall be paid in Land Registry stamps, impressed or adhesive, as laid down in the order in that behalf made under the Public Offices Fees Act, 1879.(*b*)

(2) Land Registry stamps shall be purchasable in the Registry, and may be paid for by bankers' draft or by postal or post office order or by cheque drawn to the order of The Commissioners of Inland Revenue, or in Bank of England notes or cash. Provided that when the fees are paid by cheque the registration shall not be completed until due time has been allowed for the cheque to be cleared, and that if the cheque is not honoured the application for registration shall be cancelled and the document tendered for registration returned to the applicant.

(3) Remittances by post not exceeding 1s. may be made in postage stamps.

4. (1) The above fees include, in the matters to which they relate, all necessary stationery and mapping done in the Registry; the preparation, issue, endorsement and deposit of certificates, wherever such issue, endorsement or deposit is obligatory; discharges of incumbrances; the filing of auxiliary documents (if any); and all other necessary costs of and incidental to the completion of each registration or transaction.

(2) They also include, in districts where registration of title is compulsory, any surveying that may be necessary to enable the land to be identified on the ordnance map or Land Registry General Map.

(3) But where boundaries are to be noted on the Register as "accurately defined," or the applicant desires that the land should be described by a separate filed plan, such additional charges may be made to cover the cost of the necessary inquiries, mapping, surveying and notices as the Registrar shall in each case deem reasonable.

5. Where application is made for special expedition in connection with any application, such further fee may be charged as the Registrar in view of the special work involved may prescribe.

6. If an application for first registration of land, or for any entry in the Register, is cancelled, such portion of the fee may be returned as the Registrar shall prescribe.

7. In cases falling under paragraph I, J or K where, owing to special circumstances, the fees prescribed thereby appear to the Registrar to be insufficient having regard to the time and labour involved, he may prescribe such additional fee as he may think reasonable, and in the reverse case he may, with the consent of the Treasury, accept a smaller fee or remit the fee.

8. If in the course of any proceeding the Registrar consult counsel, or applies to a solicitor or other person (other than the applicant or his solicitor, agent or servant) to produce a document, certificate or plan, or to supply a copy thereof, or to do any act or to furnish any information, or to prepare any title for registration, or if he directs service of a notice, publication of an advertisement or the making of a survey, journey or inquiry, the costs so incurred shall be defrayed as follows :—

(*a*) In the case of an application for first registration with possessory title in a compulsory area they shall be defrayed by the Registry;

(*b*) In any other case they shall be defrayed by the applicant unless an order to the contrary is made by the Registrar, when they shall be defrayed by the Registry, provided that in no case shall an applicant be chargeable with costs incurred without his consent.

9. For the purposes of this Order—

(*a*) In the case of the registration of land or of any transfer of land on the occasion of a sale, the value of the land shall be determined by the amount of the purchase money if the application for the registration of the land or of the transfer is made within one year of the sale.

(*b*) In the case of the registration of land or of any transfer of land not upon a sale, or if more than one year has elapsed since the sale, the value of the land shall be ascertained by the Registrar at such sum (not exceeding twenty times the annual value of the property, as assessed for the purposes of the enactments relating to Income Tax) as in his opinion the property would fetch if sold in the open market at the time when the registration is made. In ascertaining such value the Registrar may accept as evidence a statement in writing as to the capital or annual value of the property signed by the applicant or his solicitor, or any other person who in the Registrar's opinion is competent to make such a statement.

10. Where the first registration takes place on the enfranchisement of a copyhold or on the purchase of a leasehold by the reversioner, or of a reversion by the leaseholder, or on any other like occasion, the fee shall be calculated on the value of the combined interests in the land, unless an order to the contrary is made by the Registrar that the fee may be calculated on the value of the interest last acquired. In such case no entry of value need be made in the Register.

11. (1) Where a charge is delivered for registration together with an application for first registration of land, no fee shall be paid in respect of such charge.

(2) If delivered for registration subsequent to the date of first registration but before the issue of the Land Certificate such abatement may be made in the fee as the Registrar may direct.

(To be continued.)

(*a*) 15 G. 5. c. 20. (*b*) 42-3 V. c. 58.

Societies.

To Secretaries.—**Reports of meetings, lectures, etc., to ensure insertion in the current number, should reach the office not later than 10 a.m. Wednesday.**

The Law Society's School of Law.

There will be two special lectures at the Society's Hall on Monday and Tuesday, 11th and 12th January, at 4.15 p.m. The first lecture will be delivered by the Principal, and will deal with the manner in which a solicitor should take instructions from his client. Mr. Justice Tomlin has promised to take the chair. The second lecture will be delivered by Mr. James Whitehead, K.C., and will deal with the manner in which a solicitor should give instructions to counsel. The President will take the chair.

United Law Society.

A meeting took place in the Middle Temple Common Room on Monday, 4th January, Mr. F. H. Butcher in the chair.

Mr. D. W. Gaskell opened "That in the opinion of this House knowledge of the prisoner's guilt of the crime charged, on the part of Counsel for the defence, should debar him from undertaking the defence."

Mr. R. E. G. Russell opposed. There also spoke: Messrs. P. S. Pitt, H. W. Pritchard, H. C. Debenham, W. S. Chaney, C. R. T. Llewellyn, J. W. White, and E. B. Taylor. The opener having replied, the motion was put before the House, and lost by three votes.

Legal News.

Honours and Appointments.

NEW YEAR'S HONOURS.

VISCOUNT.

The Right Hon. ANDREW GRAHAM, BARON DUNEDIN, G.C.V.O., a Lord of Appeal in Ordinary, Keeper of the Great Seal of the Principality of Scotland.

BARON.

The Right Hon. Sir ERNEST MURRAY POLLOCK, Bt., K.B.E., K.C., Master of The Rolls, J.P. for Stafford-shire, Member of Parliament for Warwick and Leamington, 1910-1923.

BARONET.

Mr. HERBERT GIBSON, M.A., solicitor (senior partner in the firm of Messrs. Deacon & Co., 9, Great St. Helens, E.C.), President of The Law Society, which has just celebrated its centenary.

KNIGHTS.

Mr. Justice JOHN GUY, K.C., Chief Justice of the High Court of Judicature, Rangoon.

Mr. Justice WILLIAM WATKIN PHILLIPS, I.C.S., Puisne Judge of the High Court of Judicature, Madras.

Mr. Justice CHARU CHUNDER GHOSE, Puisne Judge of the High Court of Judicature, Calcutta.

Mr. Justice SAIYID MUHAMMAD ABDUL RAOOF, Khan Bahadur, Puisne Judge of the High Court of Judicature, Lahore.

Mr. Justice LOUIS STUART, C.I.E., I.C.S., Chief Judge of the Oudh Chief Court, United Provinces.

Mr. Justice BENJAMIN HERBERT HEALD, V.D., I.C.S., Puisne Judge of the High Court of Judicature, Rangoon.

ARTURO MERCIECA, Esq., LL.D., Chief Justice and President of the Court of Appeal, Island of Malta.

Mr. THOMAS RAFFLES HUGHES, K.C., Chairman of the General Council of the Bar.

Mr. JOSEPH HERBERT CUNLIFFE, K.C., M.P. for Bolton since December, 1923, H.M. Attorney-General for the Duchy of Lancaster since 1921, member of the General Council of the Bar and of the Council of Legal Education.

Mr. CHARLES MARSTON, K.C., J.P.

Mr. WILLIAM EDWARD HART, O.B.E., Solicitor, Town Clerk of Sheffield.

Mr. WILLIAM RAMSDEN, J.P., solicitor (senior partner in the firm of Messrs. Ramsden, Sykes & Ramsden, Huddersfield), Chairman of the Huddersfield Local Employment Committee.

APPOINTMENTS.

NEW REGISTRAR IN BANKRUPTCY.

The Lord Chancellor has appointed Mr. WARD COLDRIDGE, K.C., to be a registrar in bankruptcy to fill the vacancy caused by the retirement of Sir Herbert Hope.

Mr. CECIL BRODRICK, solicitor, of 63, Queen Victoria-street, has been appointed Ward Clerk of Dowgate in the City, in the room of the late Mr. George Slade.

Business Announcements.

Sir DUNCAN GREY, LL.D., of Weston-super-Mare, has taken into partnership Mr. ROLAND STONE and Mr. THOMAS CHARLES DOMMETT, who have been associated with him in his practice for some years. The firm will continue to be carried on under the style of "Grey & Co."

Wills and Bequests.

SOLICITOR'S LEGACIES TO EMPLOYEES.

Mr. George Alfred Huelin White, of High-street, Chippenham, solicitor, of Messrs. Keary, Stokes & White, a prominent Conservative, formerly a well-known Rugby player and cricketer, who died on 5th November, 1925, aged sixty, left unsettled property of the gross value of £48,086, with net personalty £38,989. He left (*inter alia*): To his managing clerk, William Henry Barrett, £300 and, six years later, if still in the service of his firm or discharged for causes other than misconduct, a further £1,000, "in consideration of his long and faithful service to me and my predecessors"; £300 (or a life annuity of £25 at his option) and a further £500 similarly six years later to his accountant, Arthur Wheeler, "in consideration of his long and faithful service to me and my predecessors"; to his assistant conveyancing clerk, A. E. Routledge, £100 if still in his service, and a further £200 six years later similarly; to his assistant accountant, L. Robins, similarly £50, with a similar further bequest of £100; £50 to his gardener, Louis Fletcher, similarly; £30 similarly to his second gardener, R. D. Parsons; and £300 to the Solicitors' Benevolent Association.

Colonel Alfred Thorney (sixty-five), of Parliament-street and Salisbury-street, Kingston-on-Hull, solicitor, City Coroner since 1897, left estate of the gross value of £8,721.

Mr. Thomas Henry Bishton (seventy-six), of Market-street, Leek, Staffs, solicitor, left estate of the gross value of £3,619.

Mr. Jonathan James Washington, of Iverna-gardens, Kensington, W., and of Trinity-square, Southwark, S.E. solicitor, of the firm of Hicklin, Washington & Pasmore, and Deputy Registrar at Southwark County Court, left estate of the gross value of £2,424.

Mr. Richard Martin, of Eversden, Sandford-road, Clonskeagh, Co. Dublin, late Solicitor for Inland Revenue for Ireland, left personal property in England and the Irish Free State of the gross value of £9,565.

Sir Charles Henry Kesteven, of Dalhousie-square, Calcutta, India, solicitor to the Government of Bengal, formerly of Wolverhampton, left estate in England of the gross value of £410.

GENERAL COUNCIL OF THE BAR.

The annual general meeting of the General Council of the Bar will be held in the Inner Temple Hall, on Monday, 18th January, under the Presidency of the Attorney-General, Sir Douglas Hogg, K.C., M.P. The annual statement for 1925, which will be presented, mentions that a proposal was received from M. Appleton on behalf of the Bars of France that the English Bar should join in an International Federation of Advocates of all countries throughout the world. The council appointed a special committee, and the proposal was communicated to the Bars in the Dominions; but the committee, after examining the proposal in detail, reported that they were unable to recommend its adoption by the Bar of England. Replies from the Dominions also pointed out the difficulties of acceding to the request.

THE COUNTY COURT FEES ORDER, 1925.

DATED DECEMBER 1, 1925.

S.R. & O. 1925, No. 1234/L.39.

The Lord Chancellor and the Treasury, in pursuance of the powers and authorities vested in him and them respectively by section 165 of the County Courts Act, 1888, as amended by the County Courts Act, 1924, section 2 of the Public Offices Fees Act, 1879, and sections 237 and 238 of the Companies (Consolidation) Act, 1908, have issued the above Order prescribing the fees which shall be taken in County Courts in respect of certain proceedings described in a schedule attached to the Order.

A copy of the Order together with Schedule attached, may be obtained from H.M. Stationery Office. (Price 6d.)

LAW OF PROPERTY ACTS.

The City of London Solicitors' Company have arranged for Mr. F. C. Watmough of the Chancery Bar to meet the members of the company and their clerks at The Carpenters Hall, Throgmorton Avenue, on Wednesdays, the 13th and 20th January, at 6 p.m., for the purpose of discussing matters of practical importance in connection with the new Law of Property Acts, and, in particular, matters requiring early attention in the new year.

TRADE FACILITIES ACTS.

Terms of Shipping Resolutions.

At a joint meeting of the Council of the Chamber of Shipping of the United Kingdom and the Shipowners' Parliamentary Committee, held on 17th December, it was unanimously resolved :—

Referring to the resolution passed by the Shipowners Parliamentary Committee on March 20, 1924, if it is the intention of the Government to continue the granting of facilities for the building of ships under the Trade Facilities Act, in order that they may have the fullest information in regard to the effect on the industry itself of any proposal put before them, the Government should be urged to instruct the Committee dealing with such applications under the Act to invite two representatives of the shipping industry to confer with them when considering such applications.

It was further resolved that :—

The British shipping industry, having already put its freight and charges on a basis to enable it to compete with foreign competition, welcomes the efforts that are being made by the British shipbuilding and ship-repairing industries to meet such competition, and, in particular, to avoid reckless extravagant waste of time and money resulting from the imposition of unreasonable demarcation conditions. Effective action on those lines by the industries themselves must precede effective action on all other lines.

The resolution passed by the Shipowners' Parliamentary Committee on 20th March, 1924, and referred to above was as follows :—

It was unanimously resolved that, in the opinion of this Committee, representative of the whole of the shipping industry of the United Kingdom, it is not desirable that the application of the Trade Facilities Act to shipbuilding be continued, and that therefore its continuance be not supported by the shipping industry.

INCOME-TAX LAW.

Inland Revenue Text-book for the Public.

The Stationery Office announces that there will shortly be placed on sale a new edition of the Income Tax Acts. This volume has been prepared by the Board of Inland Revenue primarily as a departmental text-book for the use of the Board's inspectors of taxes, and it has been decided to issue it to the public because of the need of an up-to-date book of reference showing the effect on the income-tax code of the many changes in the law, including the recasting of the schemes for graduation and differentiation of the tax, that have been made since the consolidation of the income-tax law carried out in the Income Tax Act, 1918.

The edition contains the Income Tax Act, 1918, as amended, the income-tax provisions of the Finance Acts, 1919 to 1924, as amended, and the income-tax provisions of the Finance Act, 1925. Explanatory footnotes are provided throughout linking up the provisions of the Acts with cognate provisions in later Acts. Tables showing rates of income-tax from the year 1894-95 and rates of super-tax from the year 1909-10 are given, and the volume contains a very detailed index.

For the benefit of the users of the book, it is intended to issue each year a special print of the income-tax sections of the Finance Act for the year (with marginal paragraph numbers and page headings similar to those adopted in the volume itself) which can be inserted in its proper place in the book by means of "guard" sheets provided for this purpose. In addition, there will be issued each year either a supplement to the index (each year's supplement incorporating that issued in the preceding year) or a complete reprint of the index. The book comprises, with the index, 451 pages and 12 "guards," and the price is 10s. 6d.

The Directors of the Westminster Bank Limited have declared a final dividend of 10 per cent. in respect of the £20 shares, making 20 per cent. for the year; and a final dividend of 6¼ per cent. on the £1 shares, making the maximum of 12½ per cent. for the year. The dividends will be payable (less income tax) on the 1st February.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 5%. Next London Stock Exchange Settlement. Thursday, 21st January, 1926.

	Middle Price. 6th Jan.	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 2½%	55	4 11 0	—
War Loan 5% 1929-47	100⅝	4 19 6	4 18 6
War Loan 4½% 1925-47	94⅞	4 15 0	4 18 0
War Loan 4% (Tax free) 1929-47	100¼	4 0 0	4 0 0
War Loan 3½% 1st March 1928	97⅝	3 12 6	4 19 0
Funding 4% Loan 1960-90	85⅞	4 13 0	4 15 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	92¾	4 6 0	4 8 6
Conversion 4½% Loan 1940-44	95⅜	4 14 6	4 17 0
Conversion 3½% Loan 1961	75½	4 13 0	—
Local Loans 3% Stock 1921 or after	63⅜	4 15 0	—
Bank Stock	248½	4 16 6	—
India 4½% 1950-55	88	5 2 0	5 6 0
India 3½%	66¼	5 5 0	—
India 3%	57½	5 4 6	—
Sudan 4½% 1939-73	92xd	4 18 0	4 19 0
Sudan 4% 1974	86	4 13 0	4 17 0
Transvaal Government 3% Guaranteed 1923-53 (Estimated life19 years)	80½	3 15 6	4 11 0
Colonial Securities.			
Canada 3% 1938	82½	3 13 0	4 18 0
Cape of Good Hope 4% 1916-36	91⅜	4 7 0	4 19 6
Cape of Good Hope 3½% 1929-49	78⅜	4 9 0	5 1 0
Commonwealth of Australia 5% 1945-75	101½	4 19 0	4 19 0
Gold Coast 4½% 1956	92¾	4 17 0	4 19 0
Jamaica 4½% 1941-71	93½	4 16 6	4 17 0
Natal 4% 1937	91½	4 7 6	4 19 0
New South Wales 4½% 1935-45	91¼	4 18 6	5 3 6
New South Wales 5% 1945-65	99½	5 0 6	5 1 6
New Zealand 4½% 1945	95½	4 16 0	4 19 6
New Zealand 4% 1929	96	4 3 6	5 1 0
Queensland 3½% 1945	76½	4 11 6	5 8 6
South Africa 4% 1943-63	87	4 12 0	4 16 0
S. Australia 3½% 1926-36	84	4 3 6	5 9 0
Tasmania 3½% 1920-40	83	4 4 0	5 2 0
Victoria 4% 1940-60	84½	4 15 0	4 19 0
W. Australia 4½% 1935-65	91¼	4 19 0	4 19 6
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	63	4 15 0	—
Bristol 3½% 1925-65	74¾	4 14 0	5 0 0
Cardiff 3½% 1935	87	4 0 6	5 2 6
Croydon 3% 1940-60	68	4 8 0	5 1 0
Glasgow 2½% 1925-40	76¾	3 5 0	4 11 0
Hull 3½% 1925-55	75½xd	4 13 0	5 1 6
Liverpool 3½% on or after 1942 at option of Corpn.	73¼	4 15 6	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	52½	4 15 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	62	4 16 6	—
Manchester 3% on or after 1941	62½	4 16 0	—
Metropolitan Water Board 3% 'A' 1963-2003	63¾	4 14 0	4 14 6
Metropolitan Water Board 3% 'B' 1934-2003	63¼	4 15 0	4 17 0
Middlesex C.C. 3½% 1927-47	79½xd	4 8 0	5 0 6
Newcastle 3½% irredeemable	74¾	4 14 0	—
Nottingham 3% irredeemable	62¼	4 16 6	—
Plymouth 3% 1920-60	68	4 8 0	4 19 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	82¼	4 17 6	—
Gt. Western Rly. 5% Rent Charge	101	4 19 0	—
Gt. Western Rly. 5% Preference	95½	5 5 0	—
L. North Eastern Rly. 4% Debenture	78½	5 2 0	—
L. North Eastern Rly. 4% Guaranteed	77	5 4 0	—
L. North Eastern Rly. 4% 1st Preference	69½	5 15 0	—
L. Mid. & Scot. Rly. 4% Debenture	82	4 17 6	—
L. Mid. & Scot. Rly. 4% Guaranteed	80⅜	4 19 0	—
L. Mid. & Scot. Rly. 4% Preference	75½	5 6 0	—
Southern Railway 4% Debenture	81½	4 18 0	—
Southern Railway 5% Guaranteed	99	5 1 0	—
Southern Railway 5% Preference	94	5 6 0	—